DEBATES

OF THE

Houſe of Commons,

From the Year 1667 to the Year 1694.

COLLECTED BY THE

Honble ANCHITELL GREY, Eſq;

WHO WAS

Thirty Years Member for the Town of DERBY;

CHAIRMAN of Several COMMITTEES;

AND

Decyphered COLEMAN's LETTERS for the Uſe of the HOUSE.

In TEN VOLUMES.

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[THE Prince of *Orange* having publiſhed, at the *Hague*, *October* 24, 1688, a Declaration of the Reaſons inducing him to appear in Arms in the Kingdom of *England*, for preſerving of the Proteſtant Religion, and for reſtoring the Laws and Liberties of *England*, *Scotland*, and *Ireland*, (*which ſee in the Journal*) his Highneſs landed with his Forces at *Torbay*, on *November* the 5th following; and making from thence directly towards the City of *London*, he arrived there on *Tueſday*, *December* 17; and, on the 23d of the ſame month, he iſſued forth an Order, deſiring all ſuch perſons as had ſerved in any of the Parliaments of King *Charles* II. to meet him at *St James's* on *Wedneſday*, *December* 26; and that the Lord Mayor, Aldermen, and fifty of the Common-Council of the City of *London*, would attend there likewiſe. According to which Order, many of the perſons above-mentioned met at *St James's*, at the time prefixed; when his Highneſs, in a ſhort Speech, told them, "that he deſired them to meet him there, to adviſe the beſt manner how to purſue the ends of his Declaration, in calling a free Parliament, for the preſervation of the Proteſtant Religion, *&c.*" His Highneſs being departed, the Members then preſent adjourned to the Commons Houſe at *Weſtminſter*, where the Right Hon. *Henry Powle*, Eſq; was appointed to take the Chair. The Aſſembly then taking into conſideration what had been propoſed to them by the Prince of *Orange*, after ſome Debate, came to ſeveral Reſolutions; one of which was, "to return Thanks to his Highneſs, for coming into this Kingdom, expoſing his perſon, and adventuring ſo great hazards for the preſervation of our Religion, Laws, and Liberties." Another was "to deſire him to take upon him the Adminiſtration of public Affairs, both Civil and Military, and the diſpoſal of the public Revenue;" and a third was, "to deſire him to cauſe Letters to be written, ſubſcribed by himſelf, to the Lords Spiritual and

Temporal, and to the ſeveral Counties, Boroughs, *&c.* for calling a Convention to meet on the two and twentieth of *January* next." And an Addreſs was ordered to be drawn up accordingly. The Aſſociation entered into by ſeveral Lords and Gentlemen at *Exeter*, *December* 19, was afterwards brought in, and ſigned by all the Members preſent.

Wedneſday, December 26. *In the Afternoon.*

The Addreſs above-mentioned was brought in by Mr *Hampden*, and agreed to by the Aſſembly, *(ſee it in the Journal,)* and on

Thurſday, December 27.

It was preſented by the Chairman to the Prince of *Orange*; for which his Highneſs returned them his hearty Thanks, but deferred his Anſwer till the next day,

Friday, December 28.

When he promiſed them "to endeavour to ſecure the Peace of the Nation, till the meeting of the Convention, for the Election whereof he would forthwith iſſue out Letters, *&c.*" Such Letters were accordingly iſſued; and on

Tueſday, January 22, 1688-9,

The Convention met at *Weſtminſter* *; when, after Mr *Powle* had been choſen Speaker, the following Letter was preſented to the Houſe by Mr *Jephſon*, the Prince's Secretary, and read by Mr Speaker:

["*Gentlemen*,

"I have endeavoured, to the utmoſt of my power, to perform what was deſired from me, in order to the public Peace and Safety; and I do not know that any thing hath been omitted,

* It was upon the appointed time, the longed-for 22d day of *January*, that the Grand Convention met; not only with the expectations of the *Britiſh* dominions, but of all the neighbouring Kingdoms and Nations. Being divided into two Houſes, as uſual in Parliament, (of whoſe rules they were ſtrictly obſervant) they immediately proceeded to the choice of their Speakers. In the Houſe of Peers, the Marqueſs of *Halifax* carried it againſt the Earl of *Denbigh*; and in the Lower Houſe, Mr *Powle* was unanimouſly choſen; though it was expected that Sir *Edward Seymour*, who had ſo early joined the Prince at *Exeter*, would have ſtood in competition with him. Both Houſes had their Clerks, and ſeveral Officers, as in a regular Parliament. *Echard*.

which

which might tend to their Preſervation, ſince the Adminiſtration of Affairs was put into my hands: It now lieth upon you to lay the foundations of a firm Security for your Religion, your Laws, and your Liberties.

"I do not doubt but that, by ſuch a full and free Repreſentative of the Nation as is now met, the ends of my Declaration will be attained: And ſince it hath pleaſed God, hitherto, to bleſs my good intentions with ſo great ſucceſs, I truſt in him that he will complete his own work, by ſending a Spirit of Peace and Union to influence your Councils, that no interruption may be given to a happy and laſting ſettlement.

"The dangerous condition of the Proteſtant Intereſt in *Ireland* requiring a large and ſpeedy Succour, and the preſent ſtate of things abroad, oblige me to tell you, that, next to the danger of unſeaſonable Diviſions amongſt yourſelves, nothing can be ſo fatal as too great Delay in your Conſultations.

"The States, by whom I have been enabled to reſcue this Nation, may ſuddenly feel the ill effects of it, both by being too long deprived of the ſervice of their Troops, which are now here, and of your early aſſiſtance againſt a powerful enemy, who hath declared War againſt them: And as *England* is, by Treaty, already engaged to help them upon any ſuch exigencies, ſo I am confident, that their chearful concurrence to preſerve this Kingdom, with ſo much hazard to themſelves, will meet with all the returns of friendſhip and aſſiſtance, which may be expected from you as Proteſtants and *Engliſhmen*, whenever their condition ſhall require it."]

[Debate.]

MR *Garroway*.] All *England* is ſenſible of the great deliverance that we have had from Popery and Slavery by this generous Expedition of the Prince of *Orange*. I need not urge Arguments to give him Thanks; and, in the mean time, till we can proceed to a Settlement of the Nation, and till the Lords and Commons ſhall make farther application to him, deſire "that he will be pleaſed to take the Adminiſtration of the Government upon him."

Mr *Hampden*.] I do concur in the Motion. As the Prince's Letter requires haſte, ſo I would have no time loſt in conſidering it, ſo as things may not be precipitated which require due deliberation. Be pleaſed, in the mean time, to thank the Prince, *&c.* for the great

action he has done in delivering the Nation from Popery and Slavery; and, in the ſame words, to deſire him to continue the Adminiſtration of the Government, till the Lords and Commons ſhall make farther application to him.

Col. *Birch.*] "That Thanks ſhould be returned to the Prince, for his Deliverance of us, *&c.*" I would not have it ſo; but, "that God has done it by his means." I could never have believed, ſome months ſince, what God, by his hand, hath wrought for this Kingdom.

Several other Motions were made for an Addition to the Queſtion.

Sir *Thomas Lee.*] Nothing will ſave your time more than to let two or three Gentlemen withdraw, and pen you an Addreſs, *&c.* upon the Debate of the Houſe.

Mr *John Howe.*] I think it as proper for us to ſay, by whoſe means we were brought into Popery and Slavery, as by whom we were delivered out.

The Lords ſent a Meſſage, with an Addreſs much of the ſame nature with that above debated, for the Concurrence of the Houſe; which, with ſome little variation, was agreed to by both Houſes.

Sir *Henry Capel:*] This Aſſembly has been choſen with freedom. There has not been a better Election a great while, without force of the Lord-Lieutenants. You have done a great deal in one day, but this is not enough; ſo conſider the word "Adminiſtration;" 'tis but a ſmall Truſt you repoſe in the Prince; 'twill roll, and be uncertain. The Prince has told you who has helped him to come over hither, the Proteſtants. I have ſeen quick Bills for Money paſs here, to fight againſt Proteſtants: I hope we ſhall now fight with them. His Troops are wanted in *Holland.* I hope you will not neglect a day to conſider them: The Proteſtants abroad are uneaſy till they hear how we proceed. The whole thing of "an actual War with *Frrnce*," which I have ſeen here debated, we could never

never arrive at. I have obſerved that we have not had above a hundred and ſixty formerly, at giving great Sums; whereas, now we have no King, we are a full Houſe. Therefore pray take the State of the Nation into conſideration as ſoon as you pleaſe.

Sir *Thomas Clarges.*] The matter before you is of the greateſt weight; therefore I hope you will proceed with prudence and warineſs. Whole Counties, as yet, have no Members: And, that there may be no imputations upon us, and that all exceptions may be taken away, I would have this great affair debated in a full Houſe.

[On filling up the Vacancies of the Houſe.]

Mr *Hampden.*] 'Tis proper to reſolve upon filling the Vacancies of the Houſe. I would not preclude the Motions for it; but 'tis the Order of the Houſe, on a Vacancy, to ſend your Letter for filling up that Vacancy, *&c.* If you apply to the proper Officer, he muſt have a Seal; but now he has none, ſo cannot execute your Order. Make a general Rule for filling the Vacancies here, that, upon ſuch a Motion, Application may be made to the Prince for his Letter to fill up that Vacancy.

Mr *Seymour.*] We are in ſo unfortunate an age, that it has improved Precedents, eſpecially on miſtaken grounds. There never was a Letter ſent to the Chancellor for a Writ to fill up a Vacancy, but by a Warrant from the Speaker of the Commons of *England* aſſembled. "You are to take care to chuſe, *&c.*" It muſt be firſt made known to you, and it is the eaſieſt way by Warrant or Order from you, and not to trouble the Prince upon this occaſion.

Sir *Thomas Clarges.*] A Warrant from this Houſe is a Warrant for the Lord Keeper or Chancellor, and he has always obeyed it, and thought it ſufficient authority to ſend out a Writ. Now you are here as a Convention, which is a reſemblance of a Parliament. The King, before he calls a Parliament, ſends his Writ to chuſe Members: After you have ſat here, then your Pre-

cept; and now that we are ſat here, you may ſend your Warrant or Letter to the Coroner.

The Speaker.] Anciently, you ſent to the Lord Keeper or Chancellor, to iſſue out his Writ, *&c.* There was, I remember, a great controverſy [in 1672] about my Lord Chancellor *Shafteſbury* ſending out Writs to fill Vacancies, on his own Motion, before he had notice from this Houſe *. There are two ways now propoſed; one for a Letter from the Prince to the Coroner, and the other for the Speaker to ſend his Letter in your name, *&c.* I am ready to put the Queſtion which way you pleaſe.

Ordered, That the Prince be deſired to ſend new Circulary Letters to ſome places where the old ones have miſcarried,

[*January* 23, and 26, omitted.]

Monday, January 28.

[On the State of the Nation.]

Col. *Birch.*] It has been moved, by one or two, "that the Speaker leave the Chair." I have known it moved, in granting Money, and all ordinary buſineſs, "that the Speaker leave the Chair;" but to leave it now, in a great buſineſs, you will make it twice as long. I move you to conſider, that, as it will hinder the work, ſo it will lower the greatneſs of it, and make it leſs than it is.

Serjeant *Maynard.*] 'Tis a great Affair now upon you. 'Tis never done till debated firſt in the Houſe. How many propoſitions will happen at a Grand Committee, without your directions firſt! You muſt, at a Committee, know whereupon to go. Firſt conſider of the buſineſs, and then refer it as occaſion requires.

Sir *Edward Seymour.*] What reſolution ſoever you take, I would not have you go out of the method of uſual proceedings. I know how ſtrait-laced, in ſuch a great matter, men will be in the Houſe, where they can ſpeak but once. 'Twill look as if you were not wil-

* *See Vol.* II. *p.* 2.

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ling it ſhould take effect, as if ill done. But that it may freely be done, pray leave the Chair, to debate freely the Eſtabliſhment of the Nation.

The Speaker left the Chair.

[In a Grand Committee.]

Mr *Dolben* *.] I take leave to remind you of the Order of the Houſe on *Monday*, "to conſider of the State of the Nation;" but not at the ſame time to debate the Remedies for the Misfortunes we are fallen under. Firſt, conſider the Condition of the Nation, as to that which concerns the Vacancy of the Government, by the abſence of the King. I tell you freely my opinion, that the King is demiſed, and that *James* the Second is not King of *England*. For I lay it down as an undoubted propoſition, that, when the King does withdraw himſelf from the Adminiſtration of the Government, without any proviſion to ſupport the Commonwealth; when, on the contrary, he ſtops the uſe of the Great Seal, by taking it away with him, this amounts to what the Law calls "Demiſe," *id eſt*, a ceſſion; and "demiſed" is "deſerted the Government." This is evident in Law, as it is evident in Reaſon and Authority. The meaning of the word "Demiſe" is *demiſſio*, laying down; whether actually relinquiſhing the Government, or paſſively by death; in either of which caſes, 'tis "a Demiſe." In the neceſſity of Government, all theſe caſes have the ſame conſequences. When the interruption is in the Adminiſtration, or 'tis demiſed; where there is the ſame miſchief, there muſt be the ſame remedy. 'Tis the ſame thing for the King to withdraw his perſon, which makes a Parentheſis in the Government. By withdrawing the Seal, the Chancery ceaſes, and no Juſtice can be obtained. The Common Pleas cannot be poſſeſſed of any Cauſe, without an original Writ out of Chancery; and when theſe fail, the Law fails; and, by conſequence, 'tis a Demiſe, for want of Adminiſtrators of the Government; which

* Son to the late Archbiſhop of *York*.

the Law cannot ſuffer. *Qui ceſſat regnare ceſſat judicare.* There is one Authority in the Rolls, *inſtar omnium*, in the caſe of *Ed.* IV. There was a rumour that the Earl of *Warwick* advanced towards him; he fled from *Nottingham* beyond ſea; which was a clear Demiſe, and all proceedings in *Weſtminſter-Hall* ceaſed, and it was judged a Demiſe. In 14 *Henry* VI. there are many Reſolutions of Cauſes diſcontinued, by that Demiſe; *remanſit ſine die*, becauſe *le Roi ſe demiſe*, in effect *felo de ſe.* Writs of Attachment were diſcontinued, becauſe Juſtices came not into the country, and the King went beyond ſea, without leaving a Lieutenant. The great Oracle of the Law, Judge *Littleton*, pronounced this departure of *Edward* IV. a Demiſe. Perhaps it may be objected, that *Edward* IV. did return again to the Adminiſtration of the Government, and reſumed the Government by conqueſt, not in a legal way, but by the ſword—There are two other Authorities that carry force in them. *Edward* II. reſigned the Crown, but by *dureſſe*; yet he made the Reſignation the 25th of *January*, and immediately it was judged a Demiſe. *Richard* IId's Reſignation was *per minas*, yet that was judged a Demiſe (as in *Raſtall*) *Quod recordatum de regimine regni ſui ſe demiſit R. II. &c.* Theſe Precedents ſeem ſtronger in our caſe, which is a voluntary departure, without *dureſſe*. But that our King was frighted or forced away, others can better tell; but, by what is notorious to the World, there is a ſufficient conviction that it was not Force; but that he did abandon his palace by night, and did go to ſea, and was taken and returned again to his own Guards, that Papiſts might not raiſe any diſturbance in the apprehenſion of his being detained priſoner. But this weighs moſt with me; that it was not probable that he was driven away by Force, when he ſtole away from his Guards, and repeated the attempt to be gone. There is the King's Letter to Lord *Feverſham*, wherein he is obliged to follow the Queen. We have not only our Law in the caſe, but the authority of foreign

writers,

writers. By the Civil Law, when the King does voluntarily abandon the Government, 'tis a Demiſe, and Ceſſation of the Government, according to *Grotius*, and other learned writers, by many Arguments from the Law of God—*Grotius* lays down ſome: *Si princeps habet imperium pro direlicto*, &c. he is but a private man then, he certainly ceaſes to be a Prince. Not that he was negligent in the Adminiſtration of Government, but did direlict; and we argue well, that a Direliction is a deſertion of the Government. *Hoffman*, the Civilian, ſays, "If a Prince relinquiſhes the Government, he ceaſes to be a King." Regularly, I muſt end with a Motion; which is, that you will paſs a Vote, that it is the Opinion of the Committee, "That King *James* the Second having voluntarily forſaken the Government, and abandoned and forſaken the Kingdom, it is a voluntary Demiſe in him."

Sir *Richard Temple.*] This learned Gentleman has ſaid enough to convince us, that the gravity of this Committee is great, and that we have liberty to deliver the thoughts in every man's breaſt. I ſhall farther declare, that the King has endeavoured to deſtroy the Government of the Nation in Parliaments, by practiſing to get Votes before they meet, and to turn all out of the Government, who would not comply with him in Corporations to deliver up their Charters. This has been ſo notorious, that I ſhall not mention where; though it has been the Rights and Privileges of the People, yet they ſhall not be choſen till they declare they will deſtroy the Government. How has *Weſtminſter-Hall* been tutored, Judges packed for purpoſes, and turned out, unleſs they aſſert power in Kings to diſpenſe with the Laws, ſo that *Weſtminſter-Hall* was become an inſtrument of Slavery and Popery, ordinary Juſtice deſtroyed, and extraordinary ways promoted, in that little and ſhort time of the late King *James*'s reign! When a King attempts to deſtroy the roots of Government, he differs in nothing from a Tyrant. All he has done may be reduced to that head of the deſtruction

ſtruction of the Church, by ſuſpending the Eccleſiaſtical Laws, to deſtroy all that will not comply with Popery. The miſchiefs are ſo recent and conſpicuous, that, when you come to give Reaſons, you will ſatisfy the Nation that King *James* has rendered himſelf inconſiſtent with Government. If there be not a Vacancy, and he has left the Government, what do we do here? He has quitted the Government, without aſſurance of any thing: He has ſuppreſſed the Parliament Writs: He has taken away the Great Seal; and here is an apparent end of the Government. The King is fallen from the Crown, and may think he is under an Obligation of Conſcience to break the Laws againſt Popery. He may ſay, "I will never live in that torture:" And if he has ſaid ſo, would any man doubt but that this is a Renunciation of the Government? All his actions have tended this way. If he be recalled, he will do the ſame thing again, and tell the World, "This is not from the Lords, but a company of miſerable men of the Houſe of Commons, and they may go home again; for the King can do no wrong, nor can forfeit his Crown by Male Adminiſtration."—But ſuppoſe the caſe were of an Infant, or Lunatic, the Nation may, in that caſe, provide for the Government; and, were the King a perſon that took care of the Government, he would never have left the Nation thus. He has taken none, and therefore it is our duty to do it.

Sir *Thomas Lee.*] When you have put the Queſtion, "That there is an Avoidance in the Government," then your ſecond part is, how to provide for it.

Mr *Finch.*] The Queſtion now is of Vacancy in the Government: That of the Right and Title to fill it up comes too late after the other Queſtion. Your Queſtion is, Whether the Right itſelf is gone?

Sir *Chriſtopher Muſgrave**.] As to the matter of depoſing Kings, I ſhall leave that to the Long Robe, to exerciſe

* A Gentleman of a noble family in *Cumberland*, whoſe life had been regular, and his deportment grave. He had loſt a Place in King *James*'s time; for though he was always a high Tory, yet he would not

exerciſe their abilities upon. I live near a Kingdom (*Scotland*) where I know not how ill neighbours they will be, if they concur not with your ſenſe. I would be clear, whether the intention is to depoſe the King; and, if he has forfeited his Inheritance to the Crown, I would know from the Long Robe, whether you can depoſe the King, or no.

Mr Comptroller *Wharton**.] I am glad Gentlemen have explained themſelves. The Gentleman makes a queſtion, whether the King may be depoſed; but, whether he may be depoſed, or depoſes himſelf, he is not our King. 'Tis not for mine, nor the intereſt of moſt here, that he ſhould come again. Abdication and Direliction are hard words to me, but I would have no loop-hole to let in the King; for I believe not myſelf nor any Proteſtant in *England* ſafe, if you admit him.

Sir *Chriſtopher Muſgrave*.] I believe we are in great danger, ſhould the King return again; but I would willingly know the opinion of the Long Robe; and I hope they have that candour and tenderneſs, that they will clearly give their thoughts in this great and extraordinary affair.

Serjeant *Maynard*.] I know not the meaning of this, but I am afraid of a meaning. The Queſtion is not,

not comply with his deſigns. He had, indeed, contributed much to increaſe his Revenue, and to offer him more than he aſked; yet he would not go into the taking off the Teſts. Upon the Revolution, the Place out of which he had been turned was given to a man that had a good ſhare of merit in it. This alienated him from the King; and he, being a man of good judgment, came to be conſidered as the Head of the Party; in which he found his account ſo well, that no offers that were made him could ever bring him over to the King's intereſts. Upon many critical occaſions, he gave up ſome important points, for which the King found it neceſſary to pay him very liberally. *Burnet*.

* Eldeſt ſon of Lord *Wharton*, to which title he ſucceeded on his father's death. He was one of the firſt of rank who joined the Prince of *Orange* on his landing, and, upon his advancement to the Throne, had conſiderable Places under him, as he had alſo in the reign of Queen *Anne*, being appointed Lord Lieutenant of *Ireland*, and created Earl of *Wharton*, &c. In 1714, he was appointed by King *George* I. Lord Privy Seal, and ſoon after was created a Marqueſs. He died in 1715, and was father to the late Duke of *Wharton*.

whether

whether we can depoſe the King; but, whether the King has not depoſed himſelf. 'Tis no new project; our Government is mixed, not monarchical and tyrannous, but has had its beginning from the people. There may be ſuch a tranſgreſſion in the Prince, that the People will be no more governed by him. All Governments, both military and civil, he diſpoſes of, and becauſe he aſked a Million for life, and we aſked, the laſt Parliament, but that ſome Officers, not qualified by Law, might be removed from their Places, the Parliament was diſſolved—'Tis a miſtake, that *Ireland* was conquered; it was yielded to *Henry* II. by calling him to take poſſeſſion of it; and for five hundred years it was part of the Monarchy of *England*. The laſt Rebellion was by the influence of the Prieſts and *Jeſuits*, and in 1641 the Proteſtants were all maſſacred. They ſlew 200,000 Proteſtants; and all that has been done in *Ireland*, would have been done in *England*. All authority, civil and military, was in *Iriſh* hands. Was this done like a King of *England?* What ſhall we think of this? *Ireland* to be in Popiſh hands! Can the King give away that Kingdom? This has been long creeping upon us. There is no Popiſh Prince in *Europe* but would deſtroy all Proteſtants; as in *Spain*, *France*, and *Hungary*; and in *Spain* they deſtroyed a gallant young Prince (Don *Carlos*) whom they ſuſpected to incline to the Proteſtants; and now they would make *Magdalen* College a new *St Omers*.——*The reſt the Compiler could not hear.*

Mr *Harbord.*] If the Queſtion be, whether you have power to depoſe the King, that may tend to calling him back again, and then we are all ruined.

Mr *Howe.*] Some of the Counſel talk as if they were inſtructing Juries. I wiſh they would come plainly to the point.

Sir *George Treby.*] I am ſorry for this heat in a matter that requires our utmoſt deliberation. 'Tis no leſs a Queſtion than, whether we ſhall be governed by Popery

Popery and Arbitrary Government, or whether we ſhall be rid of both. One Gentleman would have the Long Robe declare, whether we have power to depoſe the King; though he ſpeaks pertinent, yet it is not proper now; for we have found the Crown vacant, and are to ſupply that defect. We found it ſo, we have not made it ſo. Mr *Finch* would have it, the King going out of his Wits, not out of the Government. He knows the caſe; we are fallen out of the King's hands, and the Government muſt be provided for, before you go any other way than what was firſt propoſed—But, to what has been ſaid of "our not repreſenting the fourth part of the Nation, accounting women and children, and all perſons not Freeholders, of 40 *l. per annum*, who are part of the Nation, and in a Convention ought to be repreſented, when the Government is to be diſpoſed of," I ſay, we repreſent the valuable part, and thoſe that deſerve a ſhare in the Government. You have adviſed the Prince of *Orange* to take upon him the ſupreme Authority of the Adminiſtration of the Government. The condition of the Nation is incumbent on you to provide for; and I am in conſcience ſatisfied, that the King has loſt his legal Government, and is fallen from it. That King that cannot, or will not, adminiſter the Government, is no longer King; and this King neither will nor can; which are ſufficient reaſons to declare the Throne vacant. There are but two parts in Government, to command and obey the Legiſlature; but it is by the people's conſent we make Laws; and the King, in executing them, aſſumed a power to diſpenſe with the Laws in a lump. He diſpenſed with the Statute of Proviſors; and the conſequence was, the Pope ſent a Nuntio hither; and the conſequence is, he declares "he can no longer nor farther treat with his people in Parliament." As ſoon as that is done, he aſſumes an inherent indiſpenſible Authority to vacate all your Laws, diſpenſe with the Act of Uniformity, and ſet up the Eccleſiaſtical Commiſſions:

miſſions: No authority is above them; they judge without Appeal; they would have deprived all the Proteſtant Biſhops and Miniſters in *England*, and filled up their Biſhopricks and Livings with Popiſh Prieſts—The cement of the Government is for the People to depend upon the King for the Adminiſtration of the Government, and the People for the execution of Laws, preſervation of their Grants and Charters. The King, by this diſpenſing power, might have packed Members of Parliament, like the Parliament of *Paris*, which is in the nature of Regiſters, only to record the King's Will and Pleaſure by his Dragoons; ſo, by this time, we might have been choſen by Regulators or Dragoons; and Parliaments would have repreſented none of the People, except Papiſts. When the Conſtitution of Parliament is thus invaded, inſtead of redreſs of Grievances we ſhould have no Parliament called but of ſuch as made Grievances. If the Prince of *Orange* had not reſcued us from Popery, we ſhould have delivered up, by Law, both Religion and Kingdom. The height of the Article againſt *Richard* II. was, "That he would have the Laws in his own breaſt, and packing of Parliaments." It was the judgment of King *James* I. in the Parliament of 1607, "That, when a King breaks in upon his Laws, he ceaſes to be a King." It was the great Argument, in the Excluſion Bill. What hurt can be done by a Popiſh King, is in the Royal Office only; but it is impoſſible in the reſt of the Offices of the Government; for no Papiſt could come into them by Law, becauſe of the Teſts: And this was the judgment of King *James*'s friends then, and that it was that preſerved the Crown to him. How far this is a renouncing the Crown, is the Queſtion. This was King *James* I.'s own judgment; he is fallen from the Crown, and is under an obligation of conſcience to break theſe laws—I think it was an error to let him into the Throne, and I would not do another in not keeping him out. Our Deliverer has taken care

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of us; therefore put the Queſtion, "Whether King *James* II. has not made an Abdication of the Government, and that the Throne is void."

Sir *Thomas Clarges.*] To ſay "that the Crown is void," is a conſequence of an extraordinary nature. The conſequence muſt be, we have power to fill it, and make it from a ſucceſſive Monarchy an elective; and whether a Commonwealth, or alter the deſcent, is yet ambiguous. How came we hither the 22d of *December*, but to confer with the Members of former Parliaments? I told them then, "It was to conſider how to purſue the ends of the Prince of *Orange*'s Declaration, according to his Letter." And the advice ended, to call a Convention by the Prince's Letter; that ſo a full and free Repreſentation of the people might adviſe to proſecute the ends of the Declaration, which would be tant-amount to a legal Parliament. I deſire the Prince's Declaration may be read.—(*which was done.*)

Sir *William Williams.*] Should you go to the beginning of Government, we ſhould be much in the dark: Every man in town and country can agree in fact of the ſtate of things. 'Tis plain that King *James* II. is gone out of *England* into *France*; that is a plain fact. 'Tis a wilful, voluntary, or mixed action. I hear of no direction for Adminiſtration of the Government, when the King left the Kingdom; how he has diſpoſed either of Courts of Juſtice, or of the Parliament. If this fact be true, he is become uſeleſs, and has left no remedy to preſerve the peace of the Kingdom. This is partly the State of the Nation; and in that Kingdom where we had always diſreliſhed him in ſeveral Parliaments, he has left ſeveral Places void in the Government; then what is to be done in this caſe? I propoſe it to be the firſt ſtep, to declare, "That *James* the Second, by withdrawing himſelf from *England*, has deprived the Kingdom of *England* of the exerciſe of Kingly Dignity." Can any man deny all

this?

this? Then the conſequence is, we are deprived of a King.

Mr *Somers* *.] What you do in this caſe will ſatisfy the World abroad, if it be like other caſes. *Sigiſmund* King of *Sweden*'s caſe is parallel to ours. King *James* the Firſt (upon an occaſion moſt have heard of) proteſted, "That if his Poſterity were not Proteſtants, he prayed to God to take them from the Throne." *Sigiſmund* made the like imprecation. He was ſo conſiderable as to be choſen King of *Poland*. After the Crown of *Sweden* deſcended to him, he ſent to take the Government upon him: He returned, when he had changed his Religion, and brought *Jeſuits* along with him, who were reſty, and would diſturb the Government, and invade the Laws, as they have ever done. The King prepared to force his way to the Crown; but before they came to a Battle, they entered into a Treaty, and the King promiſed to call a Parliament, and that Religion ſhould be ſettled; but before they met, he withdrew to the Kingdom of *Poland*: So they ſettled *Charles* VIII. upon that Throne. Firſt and laſt, the matter was jeſuited, to change Religion,

* Member for *Worceſter*, and equally celebrated as a Lawyer, a Stateſman, and a Patriot. Having diſtinguiſhed himſelf as Counſel for the ſeven Biſhops, and been ſucceſſively Sollicitor and Attorney-General; in 1693 he was appointed Lord Keeper, and in 1698 was created Lord *Somers*. After being twice ineffectually attacked by the Houſe of Commons, he was diſmiſſed from his Places, on a change of the Miniſtry, in 1706; and in 1701 was impeached by the Houſe of Commons, but honourably acquitted by the Houſe of Lords. In the reign of Queen *Anne* he had the chief hand in projecting the ſcheme of the Union, and in 1708 was made Lord Preſident of the Council, but was again diſmiſſed, on the change of the Miniſtry, in 1710. "He held the Seals (ſays *Burnet*) ſeven years, with a high reputation for capacity, integrity, and diligence, and was in all reſpects the greateſt man I had ever known in that poſt. He was very learned in his own profeſſion, with a great deal more learning in other profeſſions, in divinity, philoſophy, and hiſtory. He had a great capacity for buſineſs, with an extraordinary temper; for he was fair and gentle, perhaps to a fault, conſidering his poſt; ſo that he had all the patience and ſoftneſs, as well as the juſtice and equity, becoming a great Magiſtrate. He had always agreed in his notions with the Whigs, and had ſtudied to bring them to better thoughts of the King (*William*) and to a greater confidence in him." He died (without iſſue) in 1716.

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ſubvert the Government, and to withdraw from the Kingdom. That withdrawing of *Sigiſmund* was much leſs than ours. He went to the Kingdom he came from; ours has withdrawn to another Kingdom, which has always been againſt the intereſt of *England*, and he cannot come out of the *French* King's power without his conſent, and all to his advantage. Some have taken notice of things before, and ſome ſince, his deſertion: But the King's going to a foreign Power, and caſting himſelf into his hands, abſolves the People from their Allegiance. He ſent an Ambaſſador* to *Rome*, received a Nuntio from thence, received a foreign Juriſdiction, and ſet up *Romiſh* Biſhops in *England*, that the Popiſh Religion might intervene with the Government, thereby to ſubject the Nation to the Pope, as much as to a foreign Prince. *Ireland*, which has coſt *England* ſo much Treaſure to reduce, and now to deliver it up to the *Iriſh*, to ſubject it to a foreign Power! And to do things by ſuch hands, as, by the Conſtitution of the Kingdom are incapable! The hands were as much out of the way as the deſign—Juſt like *Sigiſmund*, after he had left the Kingdom, to ſend away the Seal, call a Parliament, and then deſert the Nation!—My Motion is, That you will appoint a Committee to draw a Vote upon the Debate.

Serj. *Maynard.*] The difference is in words only: I will ſpeak to the laſt only. I am not of opinion that the King, being a Papiſt, has made himſelf incapable of the Crown.

Mr *Finch.*†] You have had variety of Motions, and have well collected them. Give me leave to examine the Motions; and I aſk pardon if I differ in ſome things. 'Tis moved, that, by acts done by the King, he has loſt his Crown that way; by going away, he has abdicated the Crown, and made a total refuſal of the Government. 'Tis moved to vary the ſtate of the Queſtion, and only for the preſent to declare the

* Earl of *Caſtlemaine*.

† Second ſon to the Earl of *Nottingham*, and removed from being Sollicitor General in 1686. In 1702 he was created Ld *Guernſey*. In 1714 Earl of *Aylesford*, and was grandfather to the preſent Earl.

Throne vacated. What Queſtion, in point of Law, there is between "*demiſed*, *abdicated*, and *deſerted*," the conſequence can be but one and the ſame: If it be meant "Vacancy in the Throne," and you muſt fill it, and that it is devolved upon the People, that is, I believe, farther than Gentlemen would go: I believe no body will urge that ſo far, the Conſtitution of the Kingdom and Government not admitting it—If we were in the ſtate of Nature, we ſhould have little title to any of our eſtates—That the King has loſt his Title to the Crown, and loſt his Inheritance, is farther than any Gentleman, I believe, has, or will explain himſelf. The proviſion you will make will be but little acceptable to ſuch a foundation. The conſequence is but this; ſince the Monarchy is hereditary, be it vacated, or whatever you will call it, the deſcent is the conſequence of all. No man will ſay the Monarchy is elective, let the Adminiſtration be ever ſo ill, and that the King has no more in the Monarchy than the exerciſe of it. If by neglect, or male-adminiſtration, he can forfeit no more than is in him, then this conſequence is no more, than that his perſonal exerciſe of the Crown is gone; but ſtill it muſt ſubſiſt ſomewhere. This is of the higheſt conſequence that ever any Debate was here, for Law and Religion to be eſtabliſhed ſure and firm. However we may weather it, Poſterity may curſe our memory in after-ages, if we fail in this weighty matter. What to propoſe is difficult. I will not go about to ſay that what the King has done is any way juſtifiable. Here has been an actual invaſion of our Religion and Properties, when they did get men in to give up the whole Rights of the Kingdom. Theſe are things of a high nature, and call for your timely aſſiſtance. Conſider the difficulty that will ariſe in the conſequence, to ſay, that the King has made a total Renunciation of the Kingdom. That the King may renounce, all agree, that ſuch Renunciation muſt be voluntary and public—And whether ſuch Deſertion be an Abdication? If he has loſt it,

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the Monarchy will either be hereditary or elective, and here will be conſequences. I am not of opinion that you ſhould ſend Propoſals to the King; it will not conſiſt with the ſecurity of the Nation. Suppoſe the Kingdom under a ſtate of Infancy, or Frenzy, the ſafety of the Government is in the unanimous opinion of the Nation. It is not hard to ſay, that the Parliament muſt provide for the Adminiſtration of the Government, but to call this "a direct forfeiture of the Crown!"—I will not excuſe the King, and ſay he can do no wrong; but would avoid all doubts, and not ſay, in real common parliamentary conſtruction, that the King can do no wrong, or that he has forfeited his Crown by male-adminiſtration—But ſuppoſe it the caſe of a Lunatic, or Infant, the Nation may provide for the Government; and were the King a perſon that took care of the Government that he ought to have taken care of——

Sir *Robert Howard.*] I differ in the circumſtances of what has been ſaid, though I agree in the main. There is an inconvenience in reſting upon the word "Demiſe." *Richard* II. would have no Laws but what were in his own breaſt; but our King would not be ſatisfied with arbitrary Government in the Laws Temporal, but in the Laws of the Church too, thereby to influence our ſouls as well as our bodies; and, by an arbitrary Government, to ſubvert the Civil and Eccleſiaſtical Power; and 'twas no wonder, when a *Jeſuit* and Papiſt ſat in Council, that all Corporations were ſubverted, and Parliament-men cloſeted. This was the deſign of *Rich.* II. to try Sheriffs, to pack a Parliament, to make the people own their deſtroyers—But if the Demiſe of the Government fail, where is the foundation we are upon? It muſt be ſomewhere. By a legal and juſt tryal, no man has wrong done him. The King has none done him, in diſpoſing of the Government, for he acts as a private man, he ought to act from his Laws—When he acts by his Will, and not by the Laws, he is no King; for he acts by Power and Tyranny. I have heard, "that the King has his Crown by

Divine Right," and we (the People) have Divine Right too; but he can forfeit, if he break that pact and covenant with his People, who have Right, by reaſon of their Election, as well as in the name of Mr King— This original of power, reſiſtance or non-reſiſtance, is judged by the power reſolved by People and King— The Conſtitution of the Government is actually grounded upon pact and covenant with the People. If this be ſo, what remains but that the King has made Abdication of the Government, and at one time has lopped off both Church and State? Could he have compaſſed Liberty of Conſcience, he would have cut off Church and State at one ſtroke, and ſettled Popery. Here has not been one thing unattempted to deſtroy us: And if this be ſo, 'tis my opinion that here is an Abdication of the Government, and it is devolved into the People, who are here in civil ſociety and conſtitution to ſave them. And if Divine Right does conſecrate all theſe violations of our Laws, 'tis ſtrange! If the King be of another Religion from his people, and makes a combination with a foreign Power, ſhall he carry all away with him to deſtroy us? I am of opinion, " that *James* II. has abdicated the Government*."

Mr *Pollexfen.*†] The Queſtion that has been propoſed is, " Whether, by a voluntary departure of the King, the Government is demiſed?" I would not have Gentlemen ſurprized by the word " voluntary going away;" there is more meant by that than you ſuppoſe. There is a deſcent of the Crown, if a voluntary departure; and then what do you here, if you admit that? But if it be a " Demiſe," then the Crown is full by ſucceſſion; and then too what do you here? If Force has been upon the King, and then he fly, will you call this " a voluntary departure?"—Was it " voluntary"

* Sir *Robert Howard* entertained the Committee with a long harangue; and he was the firſt who ventured to aſſert the Vacancy of the Throne, and the Breach of the Original Contract, by a continued ſeries of illegal acts (many of which he enumerated and diſplayed) throughout the whole courſe of King *James*'s reign. *Echard.*

† An honeſt and learned, but perplexed Lawyer. *Burnet.* He was ſoon after made Lord Chief Juſtice.

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his flight from *Saliſbury* to *London?* The ſtronger did chaſe the weaker. If this is "voluntary," what means the noiſe of Arms? And is all this "a voluntary driving away?" I would not have you catched with this, to entangle the Debate. 'Tis an unneceſſary Queſtion, to carry at firſt ſight; and if the Crown be vacant, trouble yourſelves no farther in the matter—If the Crown be demiſed, you muſt think of the ſucceſſion of it.

Mr *Dolben.*] I would not be thought to catch the Houſe, by any Motion from me. I muſt ſtill call the King's departure, when he needed not, and might have ſtayed, though there was "noiſe of Arms," yet if the King would not ſtick to his Laws, nor redreſs the grievances of his people, I muſt call that "a voluntary Demiſe." 'Tis true, upon a Demiſe, there muſt be a Deſcent; but the Queſtion is, whether the Crown be vacant, now the King is departed, and no body to fill it up.

Sir *James Oxenden.*] 'Tis "a voluntary departure" in the King, to go away, and ſtir up foreign Princes to bring a foreign Power to deſtroy us. I cannot call it otherwiſe.

Sir *Henry Capel.*] 'Tis ſaid, "the King might have ſtayed, and called a Parliament." But Popery and a Proteſtant Government are inconſiſtent. I move, that you will vote, that the Crown is vacant.

Sir *Robert Sawyer.*] The Gentleman that firſt moved in this Debate, put it upon "a Demiſe." "Devolution" and "Abdication" ſeem to be the ſame thing called by various authors. You have been moved for other words, and in caſe of "Abdication," it is not difficult. As to the next ſtep, there is a great difference between the Throne being vacant by Abdication, and Diſſolution of the Government. The Vacancy of the Throne makes no Diſſolution of the Government, neither in our Law, nor any other. If the Government be fallen to the People, which People we are, what do the Lords and we here? If it be devolved upon the People, we have nothing to do here; we are not

the People collectively: We are Repreſentatives of the People in the three Eſtates of the Nation, and the King. And our Oaths of Allegiance, which we take before we ſit, are to the hereditary ſucceſſion of the Crown; the third Eſtate, which is the Houſe of Commons, repreſents the Freeholders and Burghers, who are not the fourth part of the Kingdom. If the Government be devolved to the People, Copy-holders, Leaſe-holders, all men under 40 *s.* a year are People—What needs the advice of the Lords to reduce things to a ſettlement? Is it not then the right of all the People to ſend Repreſentatives, and our ſitting under this frame of Government is void, as we ought not to be here, ſo it reſtores not the rights of the Kingdom—Reſtore thoſe rights by what free Parliament we can, in ſuch a form, and frame, and conſtitution as the Government will admit. What do the Lords there? Are they Repreſentatives of the People? No; of their own Eſtate only. If the Government be devolved upon the People, what do the Lords there? And we are not the People. Once a Government did diſpoſe of Crowns. And they were not the fourth part of the Kingdom that diſpoſed of the Crown in 1648. This has not only relation to ourſelves, but to another Nation, *Scotland*—If we proceed on a ſandy foundation, we ſhall deſtroy all we do. The People have a judgment of aſſent or diſſent, but not a ſuperiority of determination. If he relinquiſh the poſſeſſion of the Throne, but not the Title, whether does that amount to "an Abdication" of the Government? I take the King's departure out of the Kingdom to be "an Abdication" of the Government. He refuſes to govern, that acts otherwiſe than the Laws direct. And he that will go out of the Kingdom, does make an Abdication and Dereliction of the whole Government. In all I have read, I never met, in ſo ſhort a reign, the Laws ſo violated, and the Prerogative ſo ſtretched. In his Declaration, he wiſhes that all his ſubjects were Catholics, and, if in his power, would certainly have effected it;

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we muſt all have been Catholics, or not ſafe. The Church and State were turned topſy-turvy. As to his ſuborning a Parliament, this and *Richard* II. are the only inſtances I have met with, that ſo we might have had neither Liberty nor Property in the Nation—His intention was to govern without Law. The Proteſtant Religion here was interwoven with all the Proteſtant States of *Europe*; and that principle juſtifies the Prince of *Orange*'s coming over, and all that joined with him; which intereſt, if it fall, all falls with it. From the time the King has withdrawn, here has been no application made from him; and therefore I believe he has no intention to govern, according to the Conſtitution of the Government: Therefore no obligation remains upon us to him, in caſe this be an Abdication of the Government.

Mr *Boſcawen.*] I have hearkened to *Sawyer* a great while, but I know not how to underſtand, "that the fourth part of the people of *England* are not here repreſented," and "that this is not a Parliament." I would know of him, what other way he can propoſe of calling a Parliament, than what has been in calling this? I am of opinion, that, if we ſit here till he finds a way to ſit better than as you are, you may ſit till doomſday. Gentlemen, in former Parliaments, may remember they were told, "that the King could not be true to his Religion, if he did not what he has done:" And I believe none are willing to go into *Egypt* again. To ſettle things now, is the way to maintain both your Laws and Religion—If the King's going away be a Demiſe, then you muſt ſupply the Throne—And here is not only the King, but a little one beyond ſea too, that will pretend. I would ſay no more, but "that the Throne is void;" then take the beſt way you can; and there is but one to defend you from him that is gone, that endeavoured to deſtroy your Laws. We muſt not fight with a bulruſh: Therefore declare "that the Throne is void," and fill it. And pray put the Queſtion, "That the Throne is void."

Sir *William Pulteney.*] I ſhall ſpeak ſhort to the Queſtion, whether "Abdication," or "the Throne void," I would have both in the Queſtion, for what he has deſtroyed was without making any proviſion for the Adminiſtration of the Government. We come to ſupply what he has taken from us. Have not you made another determination of putting the Government into another's hand for the preſent, which you have already, in effect, declared "a Demiſe?"

Mr *Howe.*] People were not free from ſlavery till the Tyrant ran away. I will not ſay that any King may have the ſame guilt, but we may have the ſame fears of Popiſh Lord-Lieutenants ſet over us: Therefore put into the Queſtion all this. The laſt uſe he made of the Great Seal was to pardon malefactors, that have reduced you to this condition.

Mr *Finch.*] I deſire to explain myſelf. 'Tis inſinuated as if, from what I ſhould have ſaid, a loop-hole may be left for the King's return. I am ſo far from that, that I think there can be no ſafety in the King's return, by unanimous conſent of the Nation. I think the Government not ſafe by his Adminiſtration; But all men will agree to be ſecured. I did ſay no more. I did not mean to capitulate, but to eſtabliſh things by ſuch a Regent during the King's life; if there may be ſuch a ſecurity, all men will agree to it, and this is no loop-hole to let in the King again to the Government; for the King, by going away, *&c.* and his male-adminiſtration, ought not to be truſted; and we may fear that, in the Regency, power may be exceeded: Therefore we have a right to demand ſecurity, that we be invaded no more: Yet the diſpoſing of the Crown is another Queſtion. All men can agree, that there is no ſecurity in his return. But whether his Adminiſtration does ſo ceaſe as to loſe his Titles, every man muſt ſwear to his Vote, that he whom you ſhall place on the Throne is lawful and rightful King.

Sir

Sir *Robert Howard.*] As to the ſucceſſion of the young Gentleman beyond the ſeas, if he dies, *France* will find another for you.

Reſolved, That King *James* the Second, having endeavoured to ſubvert the Conſtitution of the Kingdom, by breaking the original Contract between King and People, and, by the advice of *Jeſuits*, and other wicked Perſons, having violated the fundamental Laws, and having withdrawn himſelf out of this Kingdom, has abdicated the Government, and that the Throne is thereby become vacant.* [Which was agreed to by the Houſe, and the Lords concurrence was deſired.]

Tueſday, January 29.

Mr *Garroway.*] Great numbers of ſhips have taken in freight for *France.* I would have you addreſs the Prince of *Orange* to ſtop them. Our Trade with the *French* King is to our diſadvantage; and now that King *James* is there, our mariners may be ſtopped.

Mr *Boſcawen.*] I would not barely addreſs the Prince to ſtop thoſe ſhips, but with it ſend our Reaſons for it.

Mr *Hampden.*] I would have it part of the Addreſs, "That the Prince would pleaſe to ſtop thoſe ſhips, by ſome ſpeedy courſe, that are going to fetch Wine from *France*;" leſt the *French* King ſtop your ſhips and men too.

Mr *Pilkington.*] When the Wines are bought up, then you will have an embargo upon your ſhips in *France*; and both Wine, Money, and Ships will be gone. And farther I deſire, "that the Prince of *Orange* will take care that no ſhips go for *Ireland*," whither, I believe, ſhips are gone down the river.

Mr *Sacheverell.*] An Embargo at this time to be general would be of ill conſequence: To run that trade into one hand at this time, the Merchants will ſuffer by it.

Mr *Love.*] I deſire the Prince may be moved, "that a few ſhips may cruize upon the *Iriſh* coaſt, to give encouragement to the Proteſtants there."

* The above complicated Reſolution (when ratified by both Houſes) was perhaps the moſt remarkable of all the *Engliſh* Records. *Echard.*

Lord

Lord *Falkland**.] The Prince has ordered ſhips to cruize upon the *Iriſh* coaſt, and in the *Channel*.

Col. *Birch*.] I trouble Wine as little as any body; but I have found by experience that claret will be drank, and Money ſpent, and not only in brandy but linnen. Nineteen parts in twenty of the *French* commodities we pay ready Money for. If any Gentleman can, let him find a way to reduce that trade to balance—And it has been, that nothing from that Kingdom has been but by way of exchange. I would have the Committee of Trade ſit, to take this into conſideration: I would have no Embargo, but ſave your Money, and that will do your work againſt this hereditary enemy of us and the Empire.

Reſolved, That a Committee be appointed to conſider of the Trade between this Kingdom and *France*, &c. and that an Addreſs to the Prince of *Orange* be prepared, to deſire him to lay an Embargo on all ſhips going out of this Kingdom for *France*.

In a Grand Committee. On the State of the Nation.

Col. *Birch*.] When I conſider the extraordinary hand of God that brought us hither, and the freedom we are here met in, it amazes me; and I am not able to comprehend this work of God in ſuch an extraordinary manner; and, concerning King *James*'s depoſing himſelf, 'tis the hand of God. Theſe forty years we have been ſcrambling for our Religion, and have ſaved but little of it. We have been ſtriving againſt *Anti-Chriſt*, Popery, and Tyranny. If we go through with this work, let every one underſtand what he means: Therefore I ſhall tell you what I mean. King *James* I. was ſo fond of the *Spaniſh* match (though that proved a *French* match at laſt) that he loſt the *Palatinate* by it: Then followed pulling Members out, and committing them to priſon. When once King *Charles* I. mar-

* Grandſon to the celebrated Lord *Falkland*, killed in the Civil Wars. This Lord was afterwards a Privy Counſellor and a Lord of the Admiralty, and died in 1694. He was grandfather to the preſent Viſcount.

ried

ried a Papiſt, all things, from that time forward, went the contrary way; all things tended to Popery and a Civil War. At laſt I was in it, and, I thought, on the right ſide—(I am ſure, I endeavoured to make it ſo before I left it.) When the two Eſtates remonſtrated, and begged that the Cuſtoms might not be levied without Law, and Ship-money, there were ſmooth tongues in this Houſe then to carry it on—Then came the breaking the Laws and Liberties, when things were near a concluſion—It was not the fault of the Miniſters of the Church of *England*; nay, nor the Non-conformiſts, but Popery was in the box, and Idolatry. I remember what was ſaid in this Houſe, when the late King *James* was married to this Queen: "Men will follow their intereſt; and it was his intereſt to deſtroy the Proteſtant Religion, our Laws and Liberties." Popery will not proſper but in an arbitrary, tyrannical ſoil. If there had never a book been written on this ſubject, yet men may ſee, that, if God had not ſtopped him, we had been led like ſheep to the ſlaughter. If then we are like to be ruined, if governed by a Popiſh Prince, my Motion is, "That you will vote it inconſiſtent with a Proteſtant State to be governed by a Popiſh Prince."

Sir *Richard Temple.*] I hope this will have no Debate; for we have found by experience, that a Popiſh King is inconſiſtent with the Government of a Proteſtant Nation.

Sir *Patience Ward.*] The proſpect of a Popiſh ſucceſſor was that which laid all the plots againſt the life of the late King *Charles*, and the Proteſtant Religion.

Sir *Robert Sawyer.*] This Debate is preparatory to what farther you intend to do. I move, "that you will vote it inconſiſtent with a Proteſtant Government to have a Popiſh Prince." There is a poſſibility that a Papiſt may be ſaved, and a poſſibility that a Popiſh King may govern well; but where the Papiſts govern the King, 'tis next to an impoſſibility that the Government ſhould be Proteſtant.

Mr

Mr *Dolben.*] There is nothing in Statute nor Common Law againſt a Popiſh Prince, but it is againſt the intereſt of the Nation.

Major *Wildman.*] The Lawyers tell you, "there is neither Common nor Statute Law againſt a Popiſh King;" but the Government of this Kingdom of *England* is an independent Supremacy, that neither foreign Potentate, either eccleſiaſtical or civil, has any thing to do here. There is no Popiſh Prince but does acknowlege the Pope to be ſupreme; but 'tis Treaſon to acknowlege that Supremacy here: Therefore to ſay, "that there is no Statute Law, *&c.*" is ſtrange to be averred by the Long Robe. I move, therefore, that you will not only declare it to be againſt the intereſt of the Proteſtant Religion to be governed by a Popiſh Prince, but "that it is againſt our Law." Our free independent Government is not conſiſtent with a Nuntio from the Pope. Four hundred years together we have laboured to keep the Church of *Rome* from our Government. 'Tis inconſiſtent with the Law of *England* to be governed by a Popiſh Prince.

Sir *Robert Sawyer.*] Will that Gentleman ſay, "that the Laws four hundred years ſince, and ſome in *Henry* VIII's time, were inconſiſtent with the Popiſh Government?" I am ſure, without doors, it will be ſtrangely thought of, if *Henry* VIII. ſhould not be ſome time a Popiſh Prince.

Major *Wildman.*] *Henry* VIII. renounced Popery utterly. We ſpeak of Princes holding Communion with the Church of *Rome*; and you may lay the word "Papiſt" aſide.

Mr *Hampden.*] I have a great deference to the learned perſon; but the Pope's Supremacy was never heard of before the firſt Nuntio came into *England*, at the inſtance of *William* the Conqueror, who found his Clergy high, and therefore he got a foreign power over them, but complained afterwards, as the greateſt Grievance, of the Pope's power in Appeals, upon which the Statute of Proviſors was made. *Henry* VIII. was the

the firſt Prince that totally ſhook off the Pope's power, and the grounds juſtified him, being againſt the Conſtitution of the Government; and all agreed to it, and the Laws againſt Nuntios from the Pope. Q. *Mary*, not ſoon, prevailed with Cardinal *Pole* to come over for Nuntio. I deſire the Queſtion as moved, *&c.*

Lord *Falkland.*] For the honour of your proceedings, let what you do to-day be conſiſtent with what you did yeſterday. If it be inconſiſtent with the Law to have a Popiſh King, purſue your Vote of yeſterday.

Reſolved, That it hath been found, by experience, to be inconſiſtent with the ſafety and welfare of this Proteſtant Kingdom, to be governed by a Popiſh Prince.

Mr *Wharton.*] You reſolved, by Vote, yeſterday, "That the Throne was vacant;" and I ſuppoſe every Gentleman, and thoſe few that were againſt the Vote, are now for filling the Throne, and re-ſettling the Government; and I hope it will be done as near the ancient Government as can be. 'Tis a matter of the greateſt weight, and deſerves the greateſt conſideration. Conſider of it a thouſand years, and you cannot caſt your eyes upon a perſon ſo well to fill it as the Prince and Princeſs of *Orange*. To them we owe all our ſafety; moſt of us, by this time, muſt either have been ſlaves to the Papiſts, or hanged. I hope, that, for the future, we ſhall have ſecurity and preſervation from them, and put them in a condition of ſaving us from our dangers for the future. As you did yeſterday, ſo I deſire you will now call upon the Gentlemen of the Long Robe to put you in ſome way practicable. I have read the ſtory of *Philip* and *Mary*; that was not a good reign, and ſo not a good Precedent; but I hope we ſhall be all happy under King *William* and Queen *Mary*.

Lord *Falkland.*] It concerns us to take ſuch care, that, as the Prince of *Orange* has ſecured us from Popery, we may ſecure ourſelves from Arbitrary Government. The Prince's Declaration is for a laſting foundation

tion of the Government. I would know what our foundation is. Before the Queſtion be put, who ſhall be ſet upon the Throne, I would conſider what powers we ought to give the Crown, to ſatisfy them that ſent us hither. We have had a Prince that did diſpenſe with our Laws; and I hope we ſhall never leave that doubtful. The King ſet up an Eccleſiaſtical Court, as he was Supreme Head of the Church, and acted againſt Law, and made himſelf Head of the Charters. Therefore, before you fill the Throne, I would have you reſolve, what Power you will give the King, and what not.

Mr *Garroway*.] We have had ſuch Violation of our Liberties in the laſt reigns, that the Prince of *Orange* cannot take it ill, if we make conditions, to ſecure ourſelves for the future; and in it we ſhall but do juſtice to thoſe who ſent us hither, and not deliver them up without very good reaſon.

Sir *William Williams*.] When we have conſidered the preſervation of the Laws of *England* for the future, then it will be time to conſider the perſons to fill the Throne. The Prince's Declaration has given us a fair platform. Some of your Laws have been very grievous to the people, though not Grievances; and perhaps thoſe occaſioned Arbitrary Government. Thoſe are to be redreſſed. Becauſe King *Charles* II. was called home by the Convention, and nothing ſettled, you found the conſequence. *Charles* II. was a young man, in the ſtrength of his youth, and, you know, much Money was given him, and what became of it? The Act of the Militia is worthy your conſideration, and he in whoſe hands you will put it ſhould be our Head. I take it to be your ſecurity to ſettle your ſafety for the future, and then to conſider the perſon. I now ſpeak for all *England*. I would conſider purging Corporations, and arbitrary Power given the late King by the Judges: Weak Judges will do weak things; their maſter commands them; they read no books, and know nothing to the contrary. I could give many more inſtances.

Sir

Sir *Richard Temple.*] I hope you will not leave till you ſee how we got out of our rights. Secure your liberties, and you cannot better recommend the Government to one to ſucceed than by ſettling theſe things. I will reduce my thoughts to three heads eſſentially neceſſary: 1. Encroachment upon Parliament, (though in the hands where you will place the Government there may be no danger) to ſecure poſterity; and you may have time to call perſons to account that break Parliaments, when they will not do what pleaſed; to provide for their certainty and frequency, and that perſons obtain not Pardons when they have ruined the Nation; and to provide for Elections of Parliaments, that Corporations may not be made tools to nominate whom they pleaſe; to provide againſt a Standing Army without conſent of Parliament, not in Peace, when there is no War nor Rebellion. An Army was no part of the Government till the late King's time. The Militia-Act was made uſe of to diſarm all *England.* 2. Your care ſhould be, that *Weſtminſter-Hall* be better filled with Judges, and not, under pretence of the King's Prerogative, to give away all. That the Judges be "during life," and that they have Salaries inſtead of Fees: That Sheriffs make not unjuſt Returns of Juries, and that *Weſtminſter-Hall* have as little power as you can. Formerly *Weſtminſter-Hall* decided not great caſes, but left them to Parliament. The Judges now do not only *Lex dicere* but *facere.* In new and difficult caſes, this will be the way to preſerve you from what they are bid to judge. 3. The Coronation-Oath to be taken upon entrance into the Government; and, as we are ſworn to our Kings, ſo they to be ſworn to protect us. Purſue the ends of the Prince's Declaration, with ſome ſuch ſecurities as I have mentioned, that theſe things may be taken care of; to recommend to poſterity what you have done for them.

Mr *Boſcawen.*] We know, that the Prince's Declaration purſues all thoſe ends mentioned. But Arbitrary Govern-

Government was not only by the late King that is gone, but by his Miniſters, and farthered by extravagant Acts of the Long Parliament. The Act for regulating Corporations was upon a ſpecious pretence to ſecure the Crown, but had the end with the Commiſſions for regulating Corporations. Though ever ſo loyal, yet if they differed from the deſigns of the Miniſtry, they were put out. The Militia, under pretence of perſons diſturbing the Government, diſarmed and impriſoned men without any cauſe: I myſelf was ſo dealt with. There is a Clauſe in the Militia-Act, for a week's tax after 70,000 *l.* for trophies, and not to exceed it; but as it is now practiſed, two or three years have been collected together, without regard to the Act. Arbitrary Power is ill in a Prince, but abominable to one another. The Triennial Bill for Parliaments was but a device, when we were going into ſlavery; but by ſuch an Act, if we have no redreſs of Grievances (as Mr *Vaughan*, of this Houſe, then ſaid, who was as much for the King as any) "better to have no Law at all." I move, that theſe things may be taken into conſideration.

Reſolved, That, before the Committee proceed to fill the Throne, now vacant, they will proceed to ſecure our Religion, Laws, and Liberties.

Serjeant *Maynard.*] I agree to the Vote; but I fear, if we look ſo much one way on Arbitrary Government, we may ſit five years, and never come to an end of what has been moved. One ſays, "in the *Saxon* time, the people were much puzzled. One King made one Law, and another King another." Another drives at a new *Magna Charta.* The former Parliaments cared not which way they run, ſo Penſions were paid—The management of the Militia was an abominable thing—Many ſpeak, in Coffee-Houſes and better places, of fine things for you to do, that you may do nothing but ſpend your health, and be in confuſion—Take care of over-loading your horſe, not to undertake too many things. I would go only to things obvious

obvious and apparent, and not into particulars too much. (*Not well heard.*)

Lord *Falkland.*] We muſt not only change hands, but things; not only take care that we have a King and Prince over us, but for the future, that he may not govern ill. Some, perhaps, are diſſatisfied with the Power, ſome with the Army—'Tis for the people's ſake we do all, that poſterity may never be in danger of Popery and Arbitrary Power.

Mr *Sacheverell.*] Since God hath put this opportunity into our hands, all the World will laugh at us, if we make a half ſettlement. As the caſe ſtands, no man can tell that what he has is his own. Unleſs you look backward how men have been impriſoned, fined, ſeverely dealt with; the ſame may happen to other Gentlemen. We muſt look a great way backward. I cannot find three Laws, from twenty years upwards, that deſerve to be continued. In the great joy of the King's Return, the Parliament overſhot themſelves ſo much, and to redreſs a few Grievances they got ſo much Money, that they could live without you; Penſions were agreed for ſo much in the hundred for all they gave; Warrants of Commitments, Arms taken from perſons, *&c.* They were ill-affected to the Government, becauſe they endeavoured to chuſe perſons they liked not. You may look back a great way; but ſecure this Houſe, that Parliaments be duly choſen, and not kicked out at pleaſure; which never could have been done, without ſuch an extravagant Revenue that they might never ſtand in need of Parliaments. Secure the Right of Elections, and the Legiſlative Power.

Mr *Pollexfen.*] Firſt make a Settlement of the Laws, that they may be aſſerted, and thoſe muſt all be conſulted by Lords and Commons, and then ſettle the Crown. Every man ſees the nature of this propoſition; if this be to confound you, 'tis a dreadful propoſition: I am as much for Amendment of the Government as any man, and for repreſſing the exorbitances of it; but the way you are in will not ſettle the Government, but reſtore King *James* again. If but a

noiſe of this goes beyond ſea, that you are making Laws to bind your Prince, it will tend to confuſion. The greateſt enemy you have cannot adviſe better. One Kingdom is gone already, and this is in confuſion. Some of the Clergy are for one thing, ſome for another; I think they ſcarce know what they would have: And the more we divide, the more it makes way for the Popiſh Intereſt. Popery is the fear of the Nation, and all that have voted againſt Popery may fear Popery—But now we begin to forget it. Formerly it was thought impoſſible that Popery ſhould come in, and that the Teſts would keep it out—But how can we bring to paſs all theſe Propoſals, before he is King? We cannot; and when he is King, perhaps he will not paſs theſe into Laws—To ſtand talking, and making Laws, and in the mean time have no Government at all! They hope better things from our actions abroad, and a better foundation of the Proteſtant Intereſt. The Prince's Declaration is the cauſe of your coming hither, that the Kingdom may be eſtabliſhed, and the Laws and Government ſecured from being ſubverted again. If we ſtand talking here, we ſhall do as ſtrange things as thoſe who prevailed by Arms in the late times; and, not coming to a Settlement, it ended in their own deſtruction, and never came into any ſettled Government; ſo the Authority of the King ſwept away all at laſt. We lately had a Bill of Excluſion; it was talked of ſo long, that both parties ſuffered, one formerly, the other ſince. A Law you cannot make till you have a King. The thing you go upon is not practicable: One Gentleman is of opinion "to take away all Laws ſince this King came to the Crown;" another (*Chriſtie*) "to make a new *Magna Charta*." If you ſit till all theſe Motions are conſidered, we may think to make our peace with King *James* as well as we can, and go home.

Mr *Garroway*.] I would not draw this Debate out at length; ſomewhat muſt be done: A great many things have been named by ſeveral perſons to be redreſſed.

dreſſed. I hope we do not go about to ſit here till all be done. All we can do for the preſent is, to repreſent to the Prince that theſe things may be done, and, under ſome ſhort Heads, to preſent the Prince with what you would have done to give ſecurity to the Government; and let an Oath be adminiſtered to him; and in a few days you may come to your end.

Mr *Seymour.*] We ſhall ſuffer by our doing more than by reaſon of not doing at all. Will you think fit to leave the diſpenſing power unqueſtioned in *Weſtminſter-Hall?* Though the clock do not ſtrike twelve at once, muſt it not ſtrike at all? Will you do nothing, becauſe you cannot do all? Will you let men go on in the ſame practices they have formerly? Will you eſtabliſh the Crown, and not ſecure yourſelves? What care I for what is done abroad, if we muſt be ſlaves in *England*, in this or that man's power? If people are drunk and rude below, as was complained of, muſt that ſtop Proceedings in Parliament?

Sir *Thomas Lee.*] I find there is a difference in the Committee, how to word the Queſtion. I know not how to propoſe words to reach every man's ſenſe. If you put it ſo general, how our Liberties have been invaded, perhaps a few days will ſtate it. There was an opinion, formerly, of the Long Robe that muſt be exploded, "That the King may raiſe what Army he pleaſes, if he pay them." That is the ſupport of ſlavery, when there is other ſupport to the King than the people's affections to their Prince.

Col. *Birch.*] I am as much afraid of loſing time as any body: Whereas diſorders of the Army in *Ireland* are ſpoken of, they will be ſtill worſe, unleſs proviſion be made to keep us from Slavery and Popery. I differ from what Gentlemen ſay, as to the time it will take you up. I think it will not take you a day's time, when you have filled the Vacancy of the Throne. Prepare what you would have repealed, and preſent it. As to the Faſt moved for, I know not what we ſhould faſt for—I will not call to-morrow * *Sunday*, for

* *January* 30.

I do not find it called ſo in books: I would ſit to-morrow, and I hope to make an end to-morrow. There is a Tax called Hearth-money; take that away, and the Prince will have ten times more ſafety than in all his Army; and that may be in one line.

Mr *Hampden*, jun.] You are, by Order, to conſider the State of the Nation. Though you have voted, that King *James* has abdicated the Crown, you have not done all; we are ſtill free, and not tied by Oaths. The time preſſes hard, on many accounts; and to riſe without doing more than filling the Throne that is vacant, is not for the ſafety of the people. 'Tis neceſſary to declare the Conſtitution and Rule of the Government. In the late Convention, there was a Vote paſſed, "That the Government was in King, Lords, and Commons." I move that the Journal may be inſpected. You have voted, "That King *James* has violated the Conſtitution of the Nation," call the chief Governor what you will.

Mr *Harbord.*] You have an infallible ſecurity for the adminiſtration of the Government: All the Revenue is in your own hands, which fell with the laſt King, and you may keep that back. Can he whom you place on the Throne ſupport the Government without the Revenue? Can he do good or harm without it? 'Tis reaſonable that you ſhould be redreſſed by Laws; but unleſs you preſerve your Government, your Papers cannot protect you. Without your ſword, how will you be ſecured from the dangers from *Ireland*, and the mutiny of the Army? All may be loſt, whilſt you are conſidering.

Sir *Richard Temple.*] We here repreſent all the Nation. Place the Government in ſome perſon, and then provide for the reſt.

Sir *Chriſtopher Muſgrave.*] In juſtification of your Vote yeſterday, to declare your Grievances, you are to declare wherein King *James* the Second has broken the Laws, and whom you have put by the Government. You muſt have wheels, before you can put the cart upon

upon them. In the firſt place, put the Queſtion, "That you will proceed in aſſerting the Rights and Liberties of the Nation; and that you will appoint a Committee to bring in general Heads of ſuch things as are abſolutely neceſſary for ſecuring the Laws and Liberties of the Nation."

[A Committee was appointed accordingly.]

Wedneſday, January 30.

[Dr *Sharp** preached before the Houſe.]

Mr Speaker informed the Houſe, that Dr *Sharp* prayed for the King by the Title of "his moſt excellent Majeſty, *&c.*"

Lord *Fanſhaw.*] The Clergy are ſubject to another juriſdiction, and you cannot cenſure them here for what they do in the Church.

Serjeant *Maynard.*] Dr *Sharp* is one of the firſt men that has made a breach upon your Vote. He has not done well: But I will not ſpeak of your juriſdiction in this matter; but let him not have the Thanks of the Houſe for his Sermon.

Sir *John Thompſon* †.] I would not ſingle out Dr *Sharp*, when almoſt all the Clergy do the ſame thing.

The Speaker.] Becauſe he that preached this Sermon, contradicts your Vote, which cauſed me to take notice of it: I take notice of it, to prevent future reflections. You vote one day, and 'tis contradicted in the Pulpit another. You will have a Sermon preached before you to-morrow by Dr *Burnet*; there is no danger of him; but I took notice of this, to prevent others.

Mr *Howe.*] This prayer of Dr *Sharp*'s, to put a contradiction upon your Vote, will encourage the Prieſts to knock our brains out. The Vote we made is contrary to Paſſive Obedience, and this man preaches it up. I move, that the Speaker may have the Thanks of the Houſe for informing us of it.

* Rector of *St Giles*'s, and Dean of *Norwich*, one of the moſt popular preachers of the age. *Burnet.* He was made Archbiſhop of *York* in 1690. † Created Lord *Haverſham* in 1690.

Mr *Pelham.**] I would not put a reflection upon this Gentleman; he has ſuffered for the Proteſtant Religion †; and your Vote not being printed nor publiſhed, he could have no notice of it. I move, "that he may have the Thanks of the Houſe for his Sermon."

Sir *Chriſtopher Muſgrave.*] No body ought to take notice of our Debates; and it has been complained of that your Votes have been made public. I wonder that this ſhould be thought a crime in this Doctor. Is not there a Law, whereby they are enjoined to pray according to the Rubric? Shall your Vote diſpenſe with an Act of Parliament?

The Speaker.] What I have informed you is not concerning the prayer in the Liturgy, but in his conceived prayer before Sermon.

Sir *Chriſtopher Muſgrave.*] The Canon obliges it; and 'tis ſtrange if by this you ſhould enſnare many people. I think we have great obligation to this Gentleman; and you know that a Prelate was under ſuſpenſion himſelf for not ſuſpending him †. All true Proteſtants have the greateſt obligation in the world to encourage this Gentleman, and I deſire that no diſcouragement may be put upon him.

Sir *John Knight.*] *Reads the printed prayers for the day (which have reference to the Liturgy)* Shall we lay a charge upon the Doctor, when he is obliged by the printed prayers? I move, "that he may have the Thanks of the Houſe for his Sermon."

Sir *Edward Norris.*] I move, "that the Doctor may have Thanks for his Sermon againſt Popery;" and let

* Eldeſt ſon of Sir *John Pelham*, whom he ſucceeded in the title of Baronet, in 1702. After having been ſucceſſively a Commiſſioner of Cuſtoms, and a Lord of the Treaſury, he was created Lord *Pelham*, by Queen *Anne*, in 1706, and died in 1711. He was father of the preſent Duke of *Newcaſtle*.

† Dr *Sharp* having preached againſt Popery, the Biſhop of *London* was required by the Court to ſuſpend him for it; which the Biſhop declining, as contrary both to Law and Juſtice, he was ſummoned himſelf before the Eccleſiaſtical Court, and ſuſpended *ab officio* for his diſobedience.

the

the prayers alone till there be farther directions about them.

Sir *William Williams.*] Now you are putting the previous Queſtion, I ſhall not interrupt it.

Sir *John Lowther.*] 'Twill look oddly to give the Doctor Thanks, in contradiction of your Vote; and the Lords Concurrence you have not yet to it; and yet it cannot be taken notice of. I would not put the previous Queſtion, becauſe ſome Gentlemen may not know what it means. [*This gave diſtaſte, and was by ſome hiſſed at. It fell.*]

[*January* 31, *Thankſgiving Day.* Dr *Burnet* preached before the Houſe.]

Friday, February 1.

Mr *Hampden*, jun.] I hear Orders are conteſted. If you, Mr Speaker, miſtake Orders, you are not the firſt in that Chair that has done ſo, nor will be the laſt. The Gentleman has began not upon miſtake of argument, but is miſtaken in fact, and you may rectify him; as in any fact as to Order, a man may be miſtaken, and you may rectify him. Pray let us not diſpute leſſer things, but think of greater matters, and put this off our hands.

Sir *Joſeph Tredenham.*] I would not have new Orders put upon us. I appeal, whether the Chair did ever judge matter of fact? If it be ſo, becauſe we are told ſo, there's an end of all. A Member may be miſtaken, but before you judge him, give him leave to juſtify himſelf.

The Speaker.] I think *Tredenham* totally miſtaken. If a Gentleman runs into diſcourſe unneceſſarily, and not to the purpoſe, I am to rectify him.

Sir *Richard Temple.*] 'Tis not judging matter of fact; but when a man goes on with a miſtake of the fact, you may rectify him. And ſo why ſhould you ſpend time to rectify a diſcourſe?

The Speaker.] I cannot judge a miſtake, but I may rectify it.

Sir *Jonathan Jennings.*] I ſat near the pulpit: The Reader prayed the whole prayers through, upon which I took particular notice of the pulpit. I hope I am rather miſtaken than to ſay you are. Under favour, without giving you contradiction, the Doctor prayed "for the King's Majeſty, and all the Royal Family."

Thanks were voted to Dr *Sharp*, and Dr *Burnet*, and they were deſired to print their Sermons.

Mr *Leveſon Gower.*] I move, that you will give the Thanks of this Houſe to the Clergy; that great body that oppoſed Popery by their preaching and writing, and have been inſtrumental in bringing us hither. I move, that you will thank them "for what they have done for defence of the Proteſtant Religion in King *James* II's reign."

Mr *Finch.*] I move, to thank them for refuſing to read the Declaration, in oppoſition to the pretended Diſpenſing Power.

Mr *Dolben.*] Likewiſe, I would have them thanked that oppoſed the juriſdiction of the Eccleſiaſtical Commiſſion.

Col. *Birch.*] I would have the addition of one word, to make the thing true; make it, "Such of the Church of *England* as refuſed to read the Declaration."

Reſolved, Nem. con. That the Thanks of this Houſe be given to the Clergy of the Church of *England*, who have preached and written againſt Popery, and refuſed to read, in their Churches, the late King's Declaration for Toleration, in oppoſition to the pretended Diſpenſing Power, claimed in the reign of the late King *James* the Second*, and have oppoſed the late illegal Eccleſiaſtical Commiſſion.

Mr *Finch.*] If the word "late King" be neceſſary in the Vote, I am not againſt it; but, whether is it material to the end of your Vote? If it be immaterial, there is no reaſon why you ſhould uſe it.

Sir *John Thompſon.*] You have ſaid, that the Throne is vacant; and will not now the thing moved, to

* In the Journal it is, "the late reign of King *James* the IId."

leave

leave out the word "late King," overthrow the conſequence of your Vote, being infinitely material?

Sir *Robert Sawyer.*] I move, that your Vote may be ſent to the two Archbiſhops, to be communicated to the Clergy.

[Which was ordered.]

Mr *Wharton.*] I am extremely pleaſed with your Vote of Thanks to the Clergy, *&c.* who have behaved themſelves gallantly in oppoſition to Popery: This leads me to a Motion for the Thanks of this Houſe to ſuch of the Army who have behaved themſelves ſo bravely in oppoſition to Popery and Slavery. Compariſons are odious; but I think it more extraordinary in men of their education. Churchmen are paid for it, but the Army was for another purpoſe. This was from God's hand; and I deſire they may have the Thanks of the Houſe.

Mr *Palmes.*] I deſire likewiſe, that the Officers of the Fleet may have the Thanks of the Houſe.

Mr *Wharton.*] I would not have the Thanks of the Houſe, as is moved, be given to the Army by the Prince of *Orange.* Is he your ſervant? Let it be by the General Officers of the Army.

Reſolved, Nem. con. That the Thanks of this Houſe be given to the Officers, Soldiers, and Mariners, in the Army and Fleet, for having teſtified their ſteady adherence to the Proteſtant Religion, and being inſtrumental in delivering this Kingdom from Popery and Slavery; and alſo to all ſuch who have appeared in arms for that purpoſe.

The Speaker.] *(Upon a Motion for gratifying the Army, &c.)* I think this Motion is unſeaſonable, and more proper for another time; it implying Money.

Mr *Garroway.*] I would go no farther in this Motion; for by retaliating upon the Papiſts here what they do upon the Proteſtants in *Ireland*, you will make a Maſſacre in *England*; ſeveral of the *Romiſh* Religion have joined with the Proteſtants in *Ireland* for ſuppreſſing *France*, &c. I would have *Jennings*, who made the Motion, carry it to the Prince of *Orange* to conſider

ſider of it; but I would leave nothing upon your books of it. *(The Gentleman moved only upon hearſay.)*

The Lords ſent down the Vote, *&c.* and agreed to it all, except "the Vacancy of the Throne."

Saturday, February 2.

Sir *George Treby* reports the Heads of the Articles of Government; *(which ſee in the Journal.)*

Serjeant *Maynard.*] Informations in the *King's-Bench* are of ſeveral ſorts; I would not have the Queſtion upon them general*, but ſay what Informations are a Grievance, and what not; elſe I know not whither they may go. Suggeſtions are Informations, for the benefit of the Court; therefore conſider what.

Sir *George Treby.*] I may make a long diſcourſe of Informations in the *King's-Bench*, not long practiſed, nor much to be commended. This is grown to a mighty vexation (unleſs in popular actions in *Middleſex.*) If a man does not appear, he is outlawed. Sometimes, for a foul fact, the Court orders an Information. But, though ſome Informations be thought miſchievous, yet the Committee rather choſe to leave it to the penning of a Law to provide an Act, than to make a Report in particular.

Mr *Pollexfen.*] Theſe are but Heads, and no Law. The taking away Informations in the *King's-Bench* may be very miſchievous. If you take them away in general, there may be a thouſand caſes wherein there can be no remedy. The matter is only for a defence from oppreſſions of Informations in the *King's-Bench.*

Mr *Hampden.*] All Informations in the *King's-Bench* are taken away for the preſent, for want of a Great Seal. But taking away the abuſes of them is the intent. I hope you intend not to take all away, but intend this memorandum as a claim, and the abuſes to be redreſſed.

* *Article* 22. "Informations in the Court of *King's Bench* to be taken away."

Sir

Sir *George Treby.*] If Informations be indifferently taken away, though the title be general, you may make reſtrictions. This is not confined to the Court of *King's-Bench*, but in the Exchequer there are vexatious Informations that may be taken away.

Mr *Finch.*] I would have it run thus: "Abuſes in Law by Informations to be remedied."

Mr *Garroway.*] Several words have been offered, as "Abuſes, Vexations, *&c.*" but who ſhall judge it? Put it, to have a mark of infamy upon it in general, and then you may qualify it in a Bill.

Col. *Birch.*] If this takes ſo much time here, what will it do in the Houſe of Lords? Therefore pen it clearly.

Mr *Sacheverell.*] Informations are not uſeful at all, where the matter may be tried by Indictment, by a Jury, and the party may know the matter he is accuſed of. This is in the nature of a declaratory Petition of Right, and muſt go to the Lords; but theſe Propoſals do not. 'Tis a ſtrange tenderneſs of ſome Gentlemen, when things are laid down as Heads only, and I wonder this ſhould have ſuch countenance here.

Mr *Hampden.*] Retarding of Juſtice, exacting exorbitant Fees upon Informations, *&c.* and a word called "Diſpatch," comes to more than the Fees themſelves.

Serjeant *Biggland.*] I would have notice taken of buying and ſelling judicial Offices, to keep honeſt men out, and put others in; and the Sheriff's Office to be conſidered, which influences the whole Government. Bailiffs and Sheriffs muſt gain, when they buy their places; and if no care be taken of buying Offices, you will never have good Adminiſtration of Juſtice.

Mr *Sacheverell.*] I would have the Law againſt buying and ſelling Offices made more effectual, by another Law; and I deſire it may be general to all Offices.

Sir *George Treby.*] Some Proviſos, in the Statute of *Edward* VI. againſt it, are ineffectual. I move, that buying and ſelling Offices may be effectually provided againſt.

Mr

The Speaker.] Some Offices are as lawful to ſell as a man's private inheritance. When you come to draw the Bill, you may provide as you pleaſe.

Serjeant *Maynard.*] I would have the Act of *Habeas Corpus* conſidered. If a Jailor be falſe, the priſoner may lie for ever by commitment of the Council-board.

Sir *William Williams.*] I have known Returns as falſe as poſſible. When a man is innocent, there muſt he lie, be the accuſation ever ſo falſe. I move, that the perſon may take iſſue upon it, that the Return is not true, and that the perſon may traverſe the legality of the Return.

Mr *Paul Foley.*] Not only upon *Habeas Corpuſes*, but upon *Mandamuſes*, and the ſame liberty to traverſe as upon a *Habeas Corpus.*

Mr *Hampden.*] Nothing has been more practiſed, nor more have ſuffered under, than when upon an Indictment the Fine is begged. He that begs it turns Proſecutor preſently; this makes way for a great deal of miſchief. A great man of the Law would never ſign any ſuch Grant, as a moſt miſchievous thing. Ordinarily, on a bare accuſation, the Fine would be begged. I would have it declared, that, before conviction, there ſhall be no begging of the Fines.

Mr *Boſcawen.*] This is grown a general practice; when the Fine is begged, it encourages perjury, and inſtructing of witneſſes. I would not only have it declared againſt Law, but ſome new penalty, that whoever begs ſuch a Grant be fined.

Sir *William Williams.*] I would go farther; that all Grants of Fines for Miſdemeanor ſhall be void.

The Speaker.] Many of theſe things are againſt Law, but in theſe Heads you only renew your Claim.

Reſolved, That begging of Fines, *&c.* is illegal and void, *&c.* and ſuch as beg them ſhall be puniſhed; and that the abuſe of collecting the Hearth-Money be redreſſed.

The Speaker communicated to the Houſe, "That he had received a Letter from Lord *Preſton*, and deſired to know what he ſhould do with it. It was directed "To the Speaker of the Honourable

Honourable Houſe of Commons, aſſembled in Parliament at *Weſtminſter*."

Sir *Henry Capel.*] I would have the Letter laid aſide.

Sir *Thomas Lee.*] This Letter, coming thus to you, gives you a good occaſion to go on with your other proceedings. You know the perſon from whom you received it, and you may lay it aſide.

[The Letter was from King *James*, incloſed in Lord *Preſton*'s Letter.]

Mr *Rowe.*] I have a Petition from great numbers of perſons, for crowning the Prince and Princeſs of *Orange* King and Queen. I deſire that it may be read.

Serjeant *Maynard.*] Here's a Petition proffered you from you know not whom, nor for what; if you read it, the Parliament is without doors, and not here.

Sir *Edward Seymour.**] This Petition is of an extraordinary nature: You are now on as great a Debate as ever Parliament was. *(It was upon the word "Abdicate, &c. and the Throne thereby become vacant;" which the Lords left out of the Vote from the Commons.)* The Lords were threatened yeſterday by the Mob, and they are not yet diſperſed. They are for a King—but make uſe of miſerable people. If your Debates are not free, there is an end of all your proceedings. You are to ſit ſure here, elſe there is no other way than to go home into the country. What comes from you is the reſult of reaſon, and no other cauſe. As your Debates muſt be free, ſo muſt your Reſolutions upon them; which cannot be, unleſs ſome care be taken to preſerve you from the Mob.

* Formerly Speaker, *&c.* His father dying in 1688, he ſucceeded to his title. In the preceding reign, though he had zealouſly oppoſed *Monmouth*, and his adherents, yet he was no leſs warm in oppoſing Arbitrary Power, and was one of the firſt Gentlemen in the Weſt of *England* that went over to the Prince of *Orange*. In 1691 he was appointed a Lord of the Treaſury, and was Comptroller of the Houſhold to Queen *Anne*. He died in 1707, and was great grandfather to the preſent Duke of *Somerſet*, and grandfather to the preſent Earl of *Hertford*.

Lord

Lord *Fanſhaw.*] You have had a Letter from Lord *Preſton:* I would ſend to him to know the contents of it.

The thing paſſed off without farther Debate.

On the Lords Amendment to the Commons Vote, *viz.* inſtead of "abdicated," "deſerted;" and leaving out "the Throne thereby become vacant."

Sir *Richard Temple.*] You have conſidered the word "abdicated" as the only proper word. As for "deſerted," I appeal whether 'tis a proper concluſion to the premiſes. The Lords have left out the whole concluſion in the matter. They have agreed "that King *James* has ſubverted the Conſtitution of the Government, has violated the original contract, and has withdrawn himſelf, *&c.*" Conſider whether this be a proper concluſion. By doing theſe acts, he has moſt plainly "abdicated the Government;" by the premiſes plainly, by ſubverting the Conſtitution, he will govern by an Arbitrary Power, though ſworn to rule according to original contract. The hour he does it, 'tis a renunciation of the Government. *Hottoman*, and all approved authors, call this "Abdicating the Government." *Henry* VI. upon fear of the Earl of *Warwick*, went out of the Kingdom, and left it; and that, by all the Judges, was judged "a Demiſe." I deſire you will not agree with the Lords.

Mr *Hampden.*] The diſpute with the Lords is about a word changed. 'Tis your word now, the word of the Houſe, and I was ever of opinion the moſt proper word. "Forſaken, forfeited," and other words, were mentioned here; but, I think, "abdicating" was in requeſt among the *Romans.* When a parent "abdicated" his child, he gave him no maintenance: Though the child never forſook the father, yet if he deſerved it, he was "abdicated." If you ſay ſuch things have been done as violating the original Contract, *&c.* is not "Self-Abdication" more than Deſertion? If it comes to be diſputed, you will then ſee the value of the

the word. Should you ſay, King *James* has deſerted, is gone from *Rocheſter*, and may come again, for doing a thing, juſtly to be abdicated, the Queſtion is, whether you will retain or change your word; agree or not agree with the Lords.

Sir *Thomas Clarges.*] This is a great buſineſs before you; all tends to the ſettlement of the Nation. Union is ſo neceſſary at this time, that I hope we ſhall agree with the Lords in the Amendments. "Deſertion" ſeems more proper than "Abdication," which is not ſo needful nor proper. As for precedents, it muſt be voluntary. That of *Charles* V. and the Queen of *Sweden*, tant-amount to that of *Alphonſo* King of *Portugal*; his Government was deſtructive to his people. *Edward* II. committed all manner of irregularities and oppreſſions, by the advice of wicked counſellors, to ſubvert all the Laws of the Nation. In *Riley*'s Collections of Records, the Parliament at *Briſtol*, upon report that the King had forſaken the Kingdom, (*deceſſit regno*, as the words of the Record are, had left the Kingdom,) by unanimous conſent, elected the Duke of *Aquitain Cuſtos regni*. Therefore I move to agree with the Lords in the word "Deſertion."

Mr *Finch.*] I would agree with the Lords, *&c.* for thoſe very reaſons offered againſt it. The departure of *Edward* IV. out of the Kingdom was judged "a Demiſe;" (*and ſo repeats the Vote.*) If you ſay King *James* deſerted the Kingdom, the Queſtion is ſtill entire; whether he did "abdicate" or "deſert," is not material. There is good reaſon why you ſhould agree with the Lords; and I take "deſert" to be the more proper word: I am ſure 'tis moſt proper to agree with the Lords. But whether "deſerted" or "abdicated," I would not differ with the Lords; for the conſequence is entire to you, and you may agree.

Sir *Richard Temple.*] I am miſ-recited, and therefore deſire to be rectified. I did not ſay "that King *James* deſerted the Kingdom," but "the Government." His renun-

renunciation is by ſomething done by fact, not by ſolemn inſtrument.

Lord *Falkland.*] If this Vote be grounded merely upon the King's leaving the Kingdom, he may come again, and reſume the Government. But "Abdication" relates to breaking your Laws; and though the Lords ſtand by the Premiſes, yet they deſert the Concluſion, in leaving out "the Throne vacant." I would therefore not agree with the Lords.

Mr *Dolben.*] The Precedent I cited the other day, and inferred my opinion upon was, that *Ed.* IV's withdrawing himſelf from the Kingdom and the Government, was a Demiſe, and it was ſo judged by the opinion of all the Judges; and from all conſiderations together, you pronounced it an "Abdication" in King *James.* But barely "a Demiſe," and "a withdrawing," without the conſideration of all the breaches he had made in the Government, the Houſe did not call it, but the word "Abdication." I would agree with the Lords if I could agree with ourſelves, and our own ſenſes, firſt. The Lords have ſo far concurred with your Vote, "That King *James* has broken the original Contract betwixt the King and People." The Premiſes muſt agree with the Concluſion; ours is the more proper inference, and we muſt ſtand by it.

Sir *Robert Sawyer.*] Authors that write of "Abdication" ſay, "to deſert" is "to abdicate." All that the Lords mean by "Abdication," you mean by "Deſertion."

Sir *Robert Howard.*] "Deſertion" is a *Latin* word, and "Abdication" is another. If there be no more intended by the Lords than the word, then the King has only deſerted the Government, and the Throne is not vacant; and the King may have the help of a Regency. They are both *Latin* words alike, and both *Engliſh:* "Abdication" ariſes from "vacated." If it be not ſo, the Lords have made room for their laſt Amendment, "That the Throne is not vacated."

Mr

Mr *Tipping*.] The Lords are of opinion that the Throne is full, but they tell you not who is in the Throne. I am ſorry to hear of a great number that would bring the King back again; how pernicious that would be to all good Proteſtants, you may eaſily judge. I am ſure 'twill be of ill conſequence to join the Prince of *Orange* with him in the Throne, But I believe the true reaſon of this diſagreeing with your Vote is the delay that the Houſe has made, that they proceeded not to fill the Vacancy of the Throne. If you had proceeded ſpeedily to fill the Throne, poſſibly you would have had another Anſwer. Put the Queſtion of diſagreeing with the Lords, and then declare, "that you will ſupply the Vacancy of the Throne."

Sir *Thomas Littleton*.] The Lords cannot expect that we, who have ſaid the Throne is vacant, ſhould not intend to fill it up: The beſt way is, to go on and fill it up, and put all out of doubt.

The Queſtion being put, That the Houſe do agree with the Lords in theſe two Amendments, it paſſed ſeverally in the Negative, *Nem. con.*

Sir *Richard Temple*.] No doubt but you can maintain your Reaſons for your Vote, at a Conference. If the Throne be full, what do we here? I move you to prepare Reaſons, *&c.* for the Lords at a Conference.

A Committee was appointed accordingly.

Monday, February 4.

Mr *Hampden* reported the following Reaſons, from the Committee, why the Commons cannot agree with the Lords Amendments of their Vote of the 28th of *January*.

"1*ſt*, Becauſe the word "deſerted" does not expreſs their meaning ſo fully, it importing no more than a "removing," which is expreſſed by the word "withdrawing" in the ſentence before; therefore they conceive the word "abdicated" a more proper word, importing "a renouncing of the Crown, *&c.*"

"2*dly*, They think they need not alter the word "vacant," becauſe their Lordſhips addreſſed the Prince of *Orange* to take upon him the adminiſtration of affairs, and to ſend Circular

Letters for this Convention to meet; and their Lordſhips appointing a day of Thankſgiving, and concurring that a Popiſh Prince is incapable to govern, *&c.* juſtifies the Commons herein."

"3*dly*, Becauſe there is no perſon on the Throne, from whom the ſubject can have regal protection, therefore they owe no Allegiance to any; and conſequently the Throne is vacant *."

[Debate.]

Sir *Joſeph Tredenham.*] I agree "that the Throne is vacant," but I cannot agree it to be "entirely vacant;" we have no ſuch thing in our Government as an *interregnum*, and ſo no entire Vacancy.

Sir *Thomas Lee.*] I appeal to the Chair. Conſider the Orders of the Houſe; now that the Houſe has reſolved that the Throne is vacant, no man can ſpeak againſt the foundation of your Vote.

Sir *Joſeph Tredenham.*] Since the Speaker ſays, 'tis Order, I muſt acquieſce.

Sir *Robert Howard.*] I hear that the Viceroy of the Corporations, Mr *Brent*, is bailed; and, upon his bailing, is fled. Upon this, the Sollicitor General (*Burton*†) is fled, after he had brought in a bill of 1700 *l.* for murdering of *Corniſh* at his Tryal ‡. I move you to ſend for Sir *James Smith*, who bailed *Brent*, to give you an account of it.

Sir *William Cowper.*] I have heard of 3000 *l.* bail given in the *King's-Bench*: 'Twas my own caſe, for no offence but only for being for the Bill of Excluſion in this Houſe.

Sir *George Treby.*] Sir *James Smith* is an Alderman of *London*, and, I believe, will give you ſome account of himſelf. If you pleaſe to ſignify your pleaſure, I ſhall give him notice.

Ordered, That Sir *James Smith* be ſent for.

* Theſe Reaſons are differently worded from thoſe printed in the Journal.

† *Burton* was a fitter man to have ſerved in a Court of Inquiſition, than in a legal Government. *Burnet.*

‡ *Corniſh*, who had been Sheriff of *London*, in King *Charles* the IId's reign, was ſeized on, tried, and executed, in a week, in 1685, on a falſe accuſation of being guilty of that for which Lord *Ruſſel* had ſuffered. *Burnet.*

Col.

Col. *Birch.*] If any Gentleman had ſpoken my ſenſe, I would not have troubled him. On *Saturday* you agreed on Articles to be ſent to the King, *&c.* things of vaſt conſequence; and, if made public, they are like to have another manner of effect. We have been ſcrambling a long time for our Religion and Properties; and ſhall theſe things lie there, and no more? Put ſome Title to them, and ſend them to the Lords immediately.

Major *Wildman.*] Conſider not to make a ſeparation of your Votes, before you ſend them to the Lords. Diſtinguiſh theſe as new Laws, and thoſe as ancient. Things of Right and of Grace will have no effect, without diſtinction. In the Petition of Right, the Commons refuſed to have new Laws, but claimed what they demanded *ab origine.* Therefore I move that they may be ſeparated.

Mr *Hampden.*] The Lords uſed to take Notes at a Conference; of late years they have deſired your Paper; but our Paper was privately delivered to the Clerk, not to the Lords; and the Houſe approved it. I deſire your direction, whether I ſhall deliver the Paper to the Lords, but not to be entered upon your Book as Order.

Sir *Thomas Lee.*] I move you to put ſome Title to the Heads you agreed the other day, to be of ſome uſe to you. You are moved to draw them into the form of the Petition of Right. Some of the Heads are not to be remedied, but by new Laws; and you cannot ſend them to the Lords till put into a new method; but as for thoſe things wherein the ancient Rights are infringed, thoſe require no new Laws. New claims of Laws already made, they'll not have the credit till taken up by both Houſes. Things laid aſleep, or ill exerciſed by the late Government, we lay claim to.

Sir *Henry Capel.*] I deſire to revive that Motion. We have been branded often with Alteration of the Government. 'Tis our right to aſſert our Freedom. 'Tis likely, whoever you ſhall inthrone will thank you

for giving light into the miſcarriages of the laſt Government. And we only aſſert our Rights and Liberties, purſuant to the Prince's Declaration.

Sir *Richard Temple.*] Thoſe things will go with your Inſtrument of Government. The Throne muſt be actually filled before you deliver that Petition; and you are well moved to make a ſeparation in the Heads.

It was ordered accordingly.

Tueſday, February 5.

Sir *James Smith* at the Bar.

The Speaker.] The Houſe is informed, that you have bailed Mr *Brent*, a Papiſt, and a buſy one. They would know on what terms you bailed him.

Sir *James Smith.*] I bailed him, becauſe there was not any Information againſt him, but that he was a Papiſt. He preſſed hard upon me to bail him, which I could not refuſe. He was taken in a private lodging, near *Old Fiſh-ſtreet*, concealed. I committed him as a *Roman Catholic:* I kept him in my houſe till Sir *William Waller* had acquainted the Prince of *Orange* that he was taken. He brought me word, that the Prince would not meddle in it: Then I committed him to the *Compter*, till Sir *William Waller* had brought a Charge againſt him, which he brought not; and then I thought I might bail him. I conſulted the Recorder, and acquainted him with what I had done, and he adviſed me to bail him. There was no body joined with me in bailing him, having nothing farther againſt him, till Sir *William Waller* charged him with endeavouring to alter the Government. It was a general Charge, and Sir *William* undertook Witneſſes to prove it. I bailed him in 1000 *l.* and 500 *l.* the ſureties 250 *l.* a-piece, to appear at the next Seſſions of the Peace. I have ſent to his bail for his appearance, and they doubt not but he will appear.

Sir *John Hanmer.*] I am informed that there is ſuch matter expreſſed in the Commitment, that he could not bail him.

Sir *John Guiſe.*] There is one *Rogers*, who is called the Poſt-Boy * of *Magdalen* College, was brought before Sir *George Treby*, and he let him go without bail.

* Rather *Poſt-maſter*—A ſcholar of the houſe ſo called.

Ordered,

Ordered, That Sir *James Smith* do attend this Houſe again to-morrow, with a copy of the Warrant of Commitment of Mr *Brent*, and a copy of the bail, *&c.* and that the Keeper of the *Compter* do alſo attend with the original Warrant of Commitment.

Mr *Hampden* reports the Conference.

Earl of *Nottingham*, *who managed.*] The Lords have deſired this Conference with the Houſe of Commons, to declare they deſire to be united to the Commons in affection, and to be as inſeparable in opinion as they are in intereſt. The Houſe of Commons are a wiſe body, *&c.* and I hope they will agree with the Lords in this great conjuncture of affairs.

Mr *Hampden.*] I hope I ſhall be excuſed, if I report it not to Lord *Nottingham*'s advantage. "The Lords agree not to the word "abdicated;" they do not find it to be a word in our known Law of *England*; therefore they would uſe ſuch words as are underſtood according to the Law, to avoid doubtful interpretation; the word "abdicate" being a Civil Law word, inſtead of "violated," "deſerted," *&c.* which does expreſs the conſequence of withdrawing. To the ſecond Amendment, "and that the Throne is thereby vacant;" though the Lords have declared that the King has deſerted the Government, yet with no other inference, than that the exerciſe of Government ceaſed; and the Lords would ſecure the Nation againſt King *James*'s return, and no ſuch Abdication; though King *James* II. ceaſed to be King, yet there could be no Vacancy in the Throne, the Monarchy being hereditary, and not elective. No act of the King can deſtroy the ſucceſſion of his Heirs, and ſuch perſons to whom of right the ſucceſſion of the Crown belongs*."

* In this Conference, according to the ſenſe of the whole Nation, the Commons had clearly the advantage on their ſide. The Lords had ſome more colour for oppoſing the word "abdicate," ſince that was often taken in a ſenſe that imported the full purpoſe and conſent of him that abdicated; which could not be pretended in this caſe. But there were good authorities brought, by which it appeared, that when a perſon did a thing upon which his leaving any office ought to follow, he was ſaid to "abdicate." But this was a critical diſpute; and it ſcarce became the greatneſs of that Aſſembly, or the importance of the matter. *Burnet.*

Sir *Thomas Clarges.*] Theſe Reaſons of the Lords ſeem to me to be ſo cogent, that they deſerve to be ſeriouſly weighed. I take the Crown to be hereditary, and that King *James* has "abdicated" the Crown, and the pretended Prince of *Wales* being in the power of the *French* King, and the Throne vacant, the Crown ought to proceed to the next Proteſtant ſucceſſor.

Serjeant *Maynard.*] Enter the Paper, and then you may diſpute the matter farther. In the mean time, 'tis a ſad thing, that the whole welfare of the Nation muſt depend upon a word of a grammatical conſtruction.

Mr *Harbord.*] The *Dutch* have ſent their beſt troops to our aſſiſtance; and the King of *France* is to rendezvouz his Army the 10th of *March*, and we are under unfortunate delays here of ſettling the Government. I can expect no other, when a ſort of men are amongſt us, that have been guilty of blood and our misfortunes, *&c.*

Sir *Thomas Clarges.*] I concur with *Harbord*, to give things fair expedition. I hope we are not in ſo great danger, the Government being ſettled in the Prince of *Orange*, and he being truſted with the Treaſure of the Nation. I hope to-day we ſhall make ſome Settlement, and nothing can be of greater uſe than unity, elſe all will crumble to nothing. The eyes of the whole Kingdom are upon us; and ſince the Clerk is poſſeſſed of the Lords Reaſons for not concurring in your Vote, I would read them, *&c.* I hope we ſhall come to a happy concluſion.

On the firſt Amendment, "deſerted" for "abdicated," *&c.*

Mr *Ettrick.*] Though King *James* has "deſerted" the Government, and the Prince of *Orange* has taken the Adminiſtration of the Government for the preſent, yet it can have no other inference, than that the exerciſe of the Government is ceaſed; and no act of King *James* can deſtroy the ſucceſſion of his Heirs. If the

the Throne be vacant, the Allegiance is due of right where the ſucceſſion belongs.

Sir *Thomas Clarges.*] I agree with the Lords Amendment. I take the Crown to be hereditary, and not elective, as appears in all our Law-books. By this Vacancy, I underſtand only that the King has abdicated from himſelf, and diveſted himſelf of the right of Government, and that the Government comes to the next Proteſtant Heir in ſucceſſion; (I explain myſelf) to the Princeſs of *Orange*—I will ſpeak freely. If the Throne be vacant, ſtrictly taken, the Kingdom is elective, and we depart from the ſucceſſion. The King has not only diveſted himſelf of the Government, by breaking the original Contract, and by his exceſſes in the Government, but has taken away the child, if it be his, into another Kingdom: And if the Crown be deſcended to him, there may be great advantages to the *French* King, who may act for him in *Scotland.* We are not debating for ourſelves, but for all the King's dominions. I am glad the Lords have explained our Vote, and I would proceed with all ſpeed to a ſettlement of the Kingdom. We are not now making ſucceſſors, though a Parliament has power to do it; which we have not, being but a Convention.

Sir *Joſeph Tredenham.*] "That the Throne is vacated," is no longer the Queſtion, but "whether a ſucceſſion of the Crown, or that the Crown is elective," was the Queſtion offered yeſterday; and any body then might have offered objections to your Reaſons: But the natural Queſtion now is, whether agree, or not agree with the Lords? The Crown was always ſucceſſive, never elective. There have been ſeveral Demiſes of the Crown, as in *Edw.* II. and *Rich.* II. yet always the next Heir to the Crown has ſucceeded. —I will not ſay any thing of the miſcarriages of the King, but we have a proper cure for them. I thank God, we have a Proteſtant Heir to the Crown. Of the Prince of *Wales* I ſhall ſay the leſs, becauſe much has been ſaid by *Clarges*; and 'tis the opinion of the Houſe,

that there is a legal incapacity, as well as a natural. In the Princeſs of *Orange* there is no incapacity; ſhe is a Proteſtant; and as for her being a woman, Queen *Elizabeth* was ſo, and reigned glorioufly. I would be grateful to the Prince of *Orange*, for the great things he has done for the Nation; but is this the way, to erect a Throne to the ruin of his Princeſs? To abdicate his Title, and make a perpetual difference betwixt them, will be no compliment to him. His matrimonial right was the argument that brought him over; and therefore, whilſt we compliment him, I would not put a diſreputation upon what he has ſo generouſly done, to put the Crown ſingly upon this noble Prince's head! No man can be grateful that is not juſt. This Prince is too generous not to be juſt. *Scotland* muſt have a ſhare of this Election; and as long as we ſtand firm to the Succeſſion, there is no reaſon to doubt but *Scotland* will cloſe with us. But we have much reaſon to doubt their concurrence, when our own Conſtitutions do not juſtify what we do. If the head be dead, what is the body? If not dead, a monſter. "Making a breach upon the fundamental Laws, by being ſeduced by the *Jeſuits*, *&c.*" If the Government be ſubverted, the whole mob may have ſome more right than we—When there is ſuch a fermentation in the Nation, our proceedings ſhould not countenance ſuch a diſorderly proceeding. *Alphonſo*, King of *Portugal*, was depoſed for Lunacy, *&c.* and his brother ſucceeded him in the Throne. But when you eradicate the Succeſſion, all the Crowns in *Chriſtendom* will concern themſelves. It will make ſuch an earthquake, that all the Proteſtants in the World will fare the worſe for it. The Prince will loſe all the glory his generous conduct has obtained. There is no other way to have peace and quiet, but by recognizing the Princeſs, who has no legal nor natural impediment.

Serjeant *Maynard.*] This Gentleman has ſpoken very well, but not to the point in queſtion. This may be well prepared, againſt that comes to be the Queſtion of

of filling the Throne, being vacant. Here is a great miſtake on all ſides—Who can think the Crown is elective, when eight or nine hundred years ago, the Crown was ſeized to the King, his Heirs, and Succeſſors?—"That the King has abdicated the Crown" is paſſed, (the Lords have agreed it.) The Queſtion is now, "Whether the Throne be vacant?" And the Queſtion, Whether vacant to King *James* cannot be, Whether vacant to perpetuity. "Vacant" is as if he now was dead, but not perpetually vacant. Will you have the former King come again? Then he muſt do as he did—Therefore there was a neceſſity to ſupply the Government for the time. When you come to ſpeak to the point, how can the Crown deſcend when the father is living? The Lords are clearly miſtaken in our Vote: We mean not that the Monarchy is elective—But thus far we muſt fill up the Throne, or have no Government. If the Throne be not fallen vacant, in the preſent tenſe, utterly now, how will you fill it up? But how muſt be the next Queſtion. 'Tis not filled, therefore vacant.

Sir *Robert Sawyer.*] Though the Throne be vacant, yet that the ſucceſſion is not void, the Lords have given ſuch forcible Reaſons, that we muſt fight againſt Law and Conſcience, if they be laid aſide. The Lords think the word "abdicate" to be otherwiſe underſtood. Conſider the legal effect of the Throne vacant. Upon the ſurrender of the Crown by *Richard* II, *Henry* IV was declared King—*(and reads the words of the Record)* The Throne was vacant by his ſurrender, and *Henry* IV claimed the Crown as his inheritance, and the Lords and Commons aſſerted his Title, and conſented that he ſhould reign. Suppoſe the King had entered into a Monaſtery, this is a civil death; when he renounces the civil adminiſtration of the Government, there is a civil death, as well as a natural; though living, yet in effect dead: The vacant poſſeſſion filled with a ſucceſſor, who claimed not by conqueſt but deſcent. You muſt explain yourſelves in your Vote, whether

whether the Throne be vacant as to a perſon, or the whole ſucceſſion gone; and that lets you into an Election. This the Lords think. We fight but with words. If we mean no more by "the Throne being vacant," than that the laſt King has renounced the Government; if we mean that the Succeſſion is good, the Lords Reaſons cannot be oppoſed. No man can queſtion, that the Kingdom of *England* is ſucceſſive. Soon after the Conqueſt, the Kingdom was unſteady: There was a potent faction in the Church at that time; but, in all times in Hiſtory, you found the Succeſſion did prevail. In *Henry* VII's time, and *Henry* VIII's, the Right of the Crown was declared hereditary. Can the King alter that Right? Can either, or both the Houſes, without the King, alter the fundamental Conſtitution of the Kingdom? It will be a great injury to the ſucceſſor to give away the Crown from her; you'll ſully all the Prince of *Orange*'s glory. He came not hither to break through all your Conſtitutions; he deſerves all you can poſſibly do for him, but to give him what we cannot do—! A Title he muſt defend as well as he can: And for all he has done to give him nothing! If by "the Throne being vacant" you mean that the Succeſſion is out of doors, I deſire you would expreſs your meaning plainly.

Serjeant *Maynard.*] In Queen *Elizabeth*'s time, an Act paſſed, "That it was a crime to maintain, that the Parliament could not diſpoſe of the Crown," in the Queen of *Scots* caſe. In *Edward* II's laſt Parliament, (when the *Spencers* governed) the Lords ſent to him to know "whether he would renounce the Crown? If he would not, he ſhall take it to whom the lot ſhall be." *(The reſt the Compiler could not hear.)*

Col. *Birch.*] Some are not of education anſwerable to ſpeak amongſt theſe learned Gentlemen. I muſt confeſs I am one of thoſe; yet I ſhall ſpeak according to the reaſon I have. I am glad Gentlemen have ſpoken ſo plainly of the ſucceſſion of this noble Lady, and to have it there ſettled, though the conſequence is endleſs;

leſs; it firſt puts us by all our hopes, what God has put into our hands will be taken away all at once. Say Gentlemen, "This is a ſacred Succeſſion, and muſt not be altered." I heard a Queſtion the other day, whether the Government was not *jure divino*, and that was over-ruled; and if you have not more room than you had, nothing can over-rule you. But I hold, that, *jure divino*, the Lords and Commons cannot do an unjuſt thing. We have taken from one brother to give to another, and it has not been queſtioned to this hour. The Lords have not agreed the Throne to be vacant; and, if ſo, where is the Government? Had you ſpoken plain *Engliſh* t'other day, that the diſpoſal of the Crown was in the Lords and Commons, there had been no room for this Debate; and you, by that authority, had inſtances in all times (and 'tis *Præmunire* to hold the contrary) and then you might have talked of the Succeſſion. I will never move you to an unjuſt or irrational thing: You are bringing upon you that which is fled; and there's a Prince of *Wales* talked of; and if he be not ſo, you will never want a Prince of *Wales*. God has brought us from Popery and Tyranny; and, at this rate, nothing will content us but to go into it again. You have Heirs in *Spain*, in *Savoy*, and all up and down, and where more I know not; and poor *England*, for want of ſpeaking one plain word, will be ruined, you and your poſterity. Say but where your power is, and the Debate is at an end. There may be claims to the Crown, but their claims will ſignify nothing; for the Lords and Commons have other thoughts. "O! but you take away Heirs and Succeſſors!" I never knew that a man yet living had Heirs. I have none, and am living. If this be thus, what can you ſay? You ſtop all claims to the Crown; for 'tis vacant, and fallen to the Lords and Commons, and no Title can fall to any body. By the Statute of Queen *Elizabeth*, and Acts of Parliament in all times, it lies here. And take it into your hands, where God, in his Providence, has given it you. I will conclude,

that

that the power of diſpoſing of the Crown is in the Lords and Commons; and by virtue of that power fill the Vacancy, And I would not agree with the Lords in leaving out "The Throne is vacant."

Mr *Finch.*] The words of your Vote muſt be, "agree or not agree with the Lords, that the Throne is vacant." The precedent words, "That King *James* has abdicated, *&c.*" whether you will agree to the Lords Concluſion, adhere or not. Whatever is ſaid, whether the Kingdom be elective or not, if you adhere to this Concluſion, you conclude that the Government is an elective Monarchy. One of our Reaſons to induce the Lords to concur to our Vote is, that they have already affirmed as much; and whether the Throne be "abdicated" or "deſerted," in both theſe caſes the Throne is vacant. By "abdicated," we intend no other conſtruction but that the Throne is vacant. By breaking the original Contract with the People, he has made the Throne void as to himſelf. Either you mean the ſame thing, or ſomething more; and I would have it ſpoken in plain *Engliſh.* And though no one reaſon has been offered againſt the Monarchy being hereditary, yet it infers more power devolved on the Lords and Commons. What is this but to make the Monarchy elective? It has been ſaid, "who ought to have this Allegiance paid, will in due time be conſidered;" but 'tis moſt proper to conſider it, when the conſequences do appear. 'Tis a doubt that your Vote may mean that the Throne is vacant for ever; therefore clear that Queſtion, whether the Monarchy be hereditary or elective: I fear our Reaſons have gone ſomewhat that way. Whoever is againſt agreeing with the Lords, concludes that the Throne is vacant, not only to King *James* the Second, but to every body elſe. I will not trouble you with arguments, whether the Crown is elective or hereditary; for 'tis beyond all queſtion, our books are ſo full of it, acknowleging the ſucceſſion of the right heirs. The Statute of *Ed.* III. declares, "the King's children ought to inherit the Crown,

Crown, though born *ultra mare*," and ſo is a Law for ever. I hear it ſaid "*Nemo eſt hæres viventis.*" There are civil deaths as well as natural. If the Throne be vacant as to King *James* II, then he is civilly dead, or elſe 'tis in the power of any King of *England*, by his Abdication, to deſtroy the Succeſſion. For the King, Lords, and Commons to limit the Succeſſion! 'Tis an act of Supreme Power unbounded, and I cannot ſay what they cannot do. But for us to limit the Succeſſion, is plainly to ſay we may chuſe a King: And is this called that prudence we ought to act with, to deſtroy that Conſtitution of the Government, which we came here to maintain?

Sir *Richard Temple.*] I have great diſadvantage to ſpeak after ſo learned a Gentleman; but I obſerve he has uſed more learning to draw you from the Queſtion than to bring you to it. But we are determining the conſequences of the Lords Amendments, before we agree that the Throne is vacant. You are told, "you cannot declare the Throne vacant, without hazard to the Monarchy, which has been transferred from one branch to another." No man goes about to change the Monarchy; but there have not been ſeven Kings but where the right line has been removed; ſo that there is no diſpute nor ground whether the Monarchy be hereditary. Though the Crown ſhould be vacant to the King and all his heirs, yet 'tis no more than tranſferring the Crown from one family to another. The Kingdom of *France* had three races, which ſucceeded in the Monarchy. Theſe Gentlemen would anticipate the day to you of naming a Succeſſor. The learned Gentleman that ſpoke laſt would have no farther Vacancy in the Throne but to King *James* II. If by your Reaſons to the Lords for retaining the word "vacant" in your Vote, the Throne be full to the immediate Heirs, there is an end of your Debate, and your being here. Is it full? Then the Lords would have ſeen it, and not put the Government into other hands. If Gentlemen aim at what they ſay, for a Proteſtant

teſtant line, how will you come at it? And you have a pretended Brat beyond ſea, whom you cannot ſet aſide; and the King may have more children legitimate, and how will you ſet them aſide? But ſome ſay, "Set all but Proteſtants aſide"—But if the Parliament have no authority to make it otherwiſe, you have no way to prevent falling under a Popiſh ſucceſſor. If the Throne be full, we have no authority to ſit here; all we have done is to arraign the Lords and ourſelves. Therefore I would not agree with the Lords, but declare the Vacancy.

Sir *Robert Howard.*] If we neglect this opportunity, now put into our hands, of ſettling the Nation, 'tis probable we may be no more a people; and 'tis pretty nigh, whether theſe learned Gentlemen, that ſpeak againſt Elections of our Monarchs, have not been the moſt violent Electors of all: They throw upon us a difficulty how we come by that Conſtitution. Is it not elective, to take one, and leave another? Election limited with ſuch narrow notions is a poor ſupport. As for thoſe arguments, I hope we ſhall preſerve the Monarchy by filling the Vacancy, and not ſay, who muſt ſucceed—Are we not thrown upon this?—Can a child make Abdication, or a child in the belly of the mother?—They would chuſe like the Day of Judgment, *one ſhall be taken, and the other left*—The Lords are bold with the ſucceſſion of a Papiſt, that none ſhall ſucceed to the Crown. Under the nice notion of the Princeſs, if there ſhould be occaſion for defence of the Nation, upon a ſilent ſteerage you are drawn upon rocks—If you uſe the hand that delivered you thus, you invite him to be gone; and by his compliment to us, he may loſe all here, and hazard the Proteſtant intereſt abroad. Theſe arguments are good in quiet times; but where a divided inheritance is the caſe—Inſtance in one thing from Kings deſcents—All things are not ſo clear as we could wiſh; but let us preſerve ourſelves, which muſt be our ſupreme Law. If we part with "the Crown not being vacant," you part with

with all; and then you may hope hereafter, that your Conſtitutions will not be violated.

Mr *Boſcawen.*] No man ſays, 'tis my right to the Succeſſion. The Commons only ſay, "the Throne is vacant." We do not impoſe any ſenſe upon the Lords. We ſay not 'tis vacant to the Prince of *Wales*, or others, but vacant. The arguments that are uſed, 'tis ſaid, are dangerous as to *Scotland*; but this objection was made in the Excluſion-Bill. Upon the whole, you are maſters of your Vote, and no man does ſay the Crown is elective; but, in an intricate caſe, the Parliament muſt ſay, where is the moſt Right; and the Parliament that is to nominate the right Heir is *tant-amount* to Election. Conſider what is leaſt exceptionable; we impoſe not upon the Lords; you ſay, 'tis vacant, without diſtinguiſhing, and nothing leſs than to ſay the Kingdom is elective. Public ſecurity ought to be conſidered, and in that we all agree.

Mr *Pollexfen.*] If this diſcourſe had been made ſooner, perhaps we had been much forwarder. If the Queſtion had been, whether you will ſtick to your former Vote, the time had been better ſpent than in Speeches. When you were then upon the Debate, if any man had ſaid the Crown was full, you would have had both Law, and Adminiſtration of Juſtice; but 'tis now reſerved till the Throne be full. And then we are all ſubverted, and return to King *James*, and ſo to Popery, if we fill not the Throne. To talk of Regencies, is to ſay, then ſure there is no Vacancy. Letters, Papers, and the Pulpit, beats a pace confuſion of your principal end, which the three Kingdoms, the Proteſtant part of the World, are intereſted in. But leſt what has been ſaid ſhould make impreſſion, I ſhall anſwer, firſt, 'tis pretended that this Vote does make ours an elective Kingdom. All men love their Monarchy, and if you make men believe that it is elective, you will catch a great many. No man ever dreamed of this; but if the caſe happen by extraordinary diſorder in the Government, that the King is driven out of the Nation,

Nation, ſay what you will that the King is driven out, yet to ſuppoſe a deſcent, by what Law is there any that this does?—This makes Kings faſten themſelves, and will ſoon make way for *James* to come in. If there be any ſuch Law, what an unreaſonable thing it is! If the King, by miſ-government, is driven out of his Kingdom, ſome body ſhall ſucceed; put me ſuch a caſe—'Twill be a diſcouragement to any to defend his country from Slavery and Tyranny, if this be the conſequence. If he takes arms to deliver his country, and he prevail, he is hanged—All our Lives, Fortunes, and Religion, are at the King's pleaſure, as his Council have told him; and his ſubjects drive him out. I have as much inclination to the Princeſs of *Orange* as any body, but you do not really mind the good of your Country, and the Proteſtant Religion. If ſhe be now proclaimed Queen, can any thing be more deſirable than that her huſband be joined with her in the Government?—Now, if you ſettle the Crown on her, and we are to ſecure a Title we cannot make, if any tranſient iſſue ſhould ariſe, ſhe is gone, and he will be in War with her Father to defend her Title—And does any think the Prince of *Orange* will come in to be a ſubject to his own wife in *England?* This is not poſſible, nor ought to be in nature. If you ſtay till the Princeſs pleaſe to give the Government to the Prince, you gratify the Prince, by taking away his wife from him, and giving her the Kingdom. If we are for unity and the Proteſtant Intereſt, I hope this marriage was made in heaven, and I hope good effects of it. That marriage, thus made, ſhall never be ſeparated by my conſent.

Mr *Wharton.*] I ſpeak for myſelf; let every one do ſo too: I own driving King *James* out, and I would do it again. Let every one make his beſt of it.

Mr *Williams.*] I take this Queſtion to be for the unity of the Lords and Commons in this great conjuncture. Let the power be where it will, I ſpeak for all *England.* All agree, that the late King *James* II. has

has departed from the Throne, and that his reign over us ceaſes. If the Lords are of opinion that the reign of King *James* is ceaſed, we are all agreed. The Lords ſay, he ſhall never return again; they are not for his returning again to his Government: I am not for the Monarchy of a Child; I am not for one to ſubvert the Laws of the Government. If this may be done by the Lords and the Commons, I would agree.

The Queſtion being put, That this Houſe do agree with the Lords in the ſecond Amendment, it paſſed in the Negative, 282 to 151.

[A free Conference was deſired.]

Wedneſday, February 6.

Sir *William Waller* attended the Houſe, and gave this account of Mr *Brent*, *viz.* "That, by common fame, Mr *Brent* was a very obnoxious perſon. He went to Sir *James Smith*, and informed him, that he was a great criminal, and deſired his Warrant to apprehend him. Accordingly he was apprehended, and he deſired Monſieur *Bentinck* to acquaint the Prince of *Orange* with it. Mr *Harbord* brought him word, that the Prince would have him proceed againſt him as the Law would bear. He took Major *Wildman*'s advice: He could not charge him but upon common fame, and, in general, that he was an obnoxious perſon, and correſponded with Prieſts and *Jeſuits*, and was buſy in regulating Corporations; the truth of which was notorious, and doubted not but to produce evidence of it. He ſaid, he could not commit him to *Newgate*, but would to the *Marſhalſea*. He told him, Mr *Bradon* might probably make ſomething out againſt him. He aſked *Smith* what was become of the Priſoner? He told him he had great friends of ſome Lords, who would appear for him, and he could not refuſe him Bail. Thoſe Lords he had done ſome kindneſs to, and they had ſent to him."

Sir *James Smith* brought a copy of the Bail, and the *Mittimus*, *viz.* "To receive *Brent* into cuſtody for High Treaſon, in correſponding with Prieſts and *Jeſuits*, and ſubverting the Government, in adviſing *Quo Warrantos* againſt Corporations." There was no proof made of any particular thing againſt him, more than what was brought in by *Waller*.

The Speaker.] High Treaſon is particular matter, and you cannot bail a perſon ſo charged, by the Statute

of *Weſtminſter*. Treaſon is not bailable but by two Juſtices of the Peace.

Sir *James Smith*.] *Waller* undertook, that perſons ſhould accuſe him; and I committed him in the mean time.

The Speaker.] You ſay, "Great perſons appeared and wrote for him:" What did they write, and by whom was it written?

Sir *James Smith*.] Lord *Devonſhire* and Lord *Danby* were friends to *Brent*, and they deſired me to bail him.

The Speaker.] You took ſmall Bail for a perſon ſo accuſed.

Sir *James Smith*.] I took 1500 *l*. Bail in all, which I did by the advice of the Recorder, who ſaid, 1000 *l*. Bail for *Brent*, and 500 *l*. for the Sureties, was ſufficient. At preſent, I do not remember the perſon who came to me from the Lords, but had ſeen him ſeveral times. I did not aſk his name.

Sir *Robert Cotton*.] It concerns me, for the ſatisfaction of the Houſe, to remind you of raiſing Bail to an exceſſive height in Lord *Delamere*'s caſe, and abating it in this.

Sir *William Williams*.] I would have an account from *Smith*, or ſome deſcription, of the perſon who came from theſe Lords.

Sir *Robert Cotton*.] Lord *Delamere* was accuſed of Treaſon in the *King's-Bench*. I was one of his Sureties in 10,000 *l*. Bond. He was afterwards committed to the *Tower*, and brought his *Habeas Corpus*, and then was bailed in 20,000 *l*. Bond, with Sureties; and *Smith* has bailed *Brent* in this ſmall ſum. This riſing and falling of Bail is remarkable.

Sir *William Portman*.] *Brent* is a notorious offender, and I look on him as the author of much of our miſchief, and I hope you will make him an example.

Sir *George Treby*.*] I was in hopes you would have called me to riſe, becauſe my name has been uſed by *Smith*. I will give you a true account of this matter. Coming out of the Court of Aldermen, *Smith* aſked

* Recorder of *London*.

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me "what he ſhould do with *Brent*, whether he ſhould bail him? There was a great complaint againſt him, but no Evidence: Whether he ſhould bail him, or no, and what Bail he ſhould take?" I told him, I wondered there ſhould be no Evidence. I adviſed him to keep him in priſon for a reaſonable time, and give notice to the Proſecutor to bring Evidence. "You may apprehend him, and keep him in cuſtody till the Proſecutor produce his Evidence, and Examination had; but longer than that you muſt not detain him. And this not being purſued, he muſt be bailed, and, in ſtrictneſs, he ought to be diſcharged. In all Bail, the Condition of the perſon is to be proportioned. If there be no Charge upon Oath, the Bail may be the leſs. If he be kept a reaſonable time, and no Proſecutor appears, it is reaſonable to bail him." The caſe appears thus to be: A man charged or chargeable with Treaſon, the Proſecutor brings no Evidence, nor can have any. If I had ſaid more, I had not exceeded the Law.

The Speaker.] You find abſolutely, that the Commitment was for Treaſon. If a Felony be committed, and common fame be upon a perſon, it is juſtifiable to commit him. Whether *Smith* hath done what he ſhould do in this matter, I leave it to the Houſe to determine. I queſtion whether, if he bail where it is not juſtifiable, he is not fineable in the *King's-Bench*.

Mr *Carter*.] The Treaſons were committed in *Weſtminſter*; and *Smith* needed no farther Information in general, where there was ſuch a notoriety.

* * * * * * *] *Smith* aggravates his crime by his Warrant, which ſpecifies Treaſon expreſsly. And he did *Brent* wrong, unleſs he had ground ſufficient for it, I deſire a courſe may be taken with him by this Houſe.

Sir *Thomas Clarges*.] We cannot commit any man, but in caſe of our Privileges. As in the caſe of the Popiſh Plot, let ſome Juſtices of the Peace examine this Gentleman, and commit him.

The Speaker.] I obſerve the date of the Recognizance to be the 24th of *January*, two days after your ſitting, *&c.* 'Tis ſtrange he ſhould do it at that time.

Sir *George Treby.*] I ſee myſelf reflected on. I ſhall anſwer for myſelf: I had no Fee in this caſe; and if I had, I ſhould be ſatisfied, when I die, that it was well taken. It has been my cuſtom, if I could not ſerve a Cauſe, to return that Fee. I have had the honour to be a Member in this place theſe twelve years. I have had offers of preferment to the beſt Office of the Law, coloured over with telling me I was a man of Parts and Law, and ſteered to the Proteſtant Religion; but I would then take no Place, and no Bribe. They preſſed me farther, "Will you truly preſerve the King in his Prerogative?" I not only loſt all advantages for my non-compliance, but was in danger of my life too—'Twas the Queſtion, "What ſaid the Recorder in the Popiſh Plot?"—I defended the Charter of *London*, and the caſe of the Sheriffs of *London*. They told me, "If you will be eaſy, no Place ſhall be too good for you. You ſhall be Chief Juſtice of *Cheſter*, Maſter of the Rolls, *&c.*" This ſhows at what rate they would have purchaſed Betrayers of the Liberties of their Country. I was not only expoſed to the frowns of the Court, but purchaſed their indignation, that I was an enemy to the King and Government. I was always againſt a Popiſh King, to get a Popiſh Parliament; and thought all would be deſtroyed, unleſs a Popiſh King was deſtroyed. This I have done, and thus I have ſuffered; and would not have Perjury in my pocket for the Empire of the World. After all I have done and ſuffered, now to ſay, "I have adviſed to take Fee-Bail for a Malefactor," what a little perfidious thing would this have been? I am concerned not to be reproached nor expoſed for my faithfulneſs to the Government.

Sir *Robert Clayton.*] If there has been any corruption in this matter, it lies in another place. The Recorder is not ſo weak as to do it. I would have *Smith* committed, not by us, but by a Juſtice of the Peace.

Lord

Lord *Falkland.*] It was eaſy to have had Evidence againſt *Brent.* The Letters ſent to Corporations were ſufficient. I would apply to the Prince, that *Smith* may be committed to the *Tower.*

Sir *William Williams.*] I hear it ſaid, "We cannot commit a Delinquent." If we do not lay hands on *Smith*, it may be of pernicious conſequence. I would commit him to the *Tower*, and the Commons may juſtify it.

Mr *Dolben.*] Though I am unwilling to differ from one of my Profeſſion, I cannot agree to Commitment from this Houſe but for Breach of Privilege—I would apply to the Prince, *&c.*

Sir *John Guiſe.*] I would not do too much, nor too little, in this caſe. *Smith* was to blame not to commit *Brent* for ſo great crimes; and he might have called another Juſtice of the Peace to his aſſiſtance. I would have him left in the Serjeant's hands, and I hope you will not let him ſlip, without putting him into the Serjeant's hands.

Sir *Thomas Lee.*] You are making a queſtion, what Power the Houſe has, and what to do with this man—I ſhall inform you of the practice in former times—In order to Impeachments, you have committed men, and when they have broken your Privilege, and in order to bring a man to the Houſe of Lords to be tried, *&c.*

Sir *Thomas Clarges.*] Several perſons were accuſed of High Treaſon in the Popiſh Plot, and you ſent to the Chief Juſtice to examine and commit them.

Sir *Thomas Lee.*] I would remind *Clarges*, that, at the Tryal of Lord *Stafford*, Members withdrew to take Informations upon Oath. The conſequence fell out to be, Sir *William Pulteney* took the Examinations, the Lords pretended Juriſdiction in it, and the Houſe loſt a point.

Mr *Wild.*] I was with Lord *Danby* and Lord *Devonſhire*, and they ſay, "they never ſent ſuch a Meſſage to *Smith* in their life."

The Speaker.] In the 18th of King *James*, there were Impeachments of Monopolies, and the Houſe ſent for men in Cuſtody, and they were committed till Examination.

Ordered, That Sir *James Smith* be committed to the Cuſtody of the Serjeant at Arms.

Thurſday, February 7.

The Lords agreed to the Vote of "Abdication," and "the Throne vacant."

Earl of *Wiltſhire**.] Now that the Lords have agreed "the Throne vacant," I hope you will proceed to fill the Throne. The perſons formerly named are the moſt proper that can be thought of, the Prince and Princeſs of *Orange*. I have not parts able to ſet out their merits, and what we owe this great Prince for delivering us from Popery and Slavery; and there is no way to ſecure us from the return of it, but by placing them on the Throne, and to preſerve the ancient Government. You have been told here of going about to make this an elective Government; but I believe nobody here is of any other opinion, but that the Government is in King, Lords, and Commons.

Major *Wildman*.] To prevent Anarchy, nothing can be better than to proceed to nominate the Prince and Princeſs of *Orange* King and Queen of *England*.

Mr *Palmes*.] I riſe not to oppoſe the Motion, but to hear what the Committee will report of the Preli-

* Eldeſt ſon to the Marqueſs of *Winchester*, afterwards Duke of *Bolton*. Having gone over to *Holland* in the reign of King *James*, he came back with the Prince of *Orange*, and was very inſtrumental in the Revolution. In 1690 he made the campaign with the King in *Flanders*, and was afterwards appointed Lord Chamberlain, Colonel of Foot, and one of the Lords Juſtices of *Ireland*. In 1699, he ſucceeded to the title of Duke of *Bolton*; and in the reign of Queen *Anne* was Warden of the *New Foreſt*, Governor of the Iſle of *Wight*, &c. In 1715, he was appointed (by King *George* I.) Lord Chamberlain; and in 1717 was declared Lord Lieutenant of *Ireland*. He was alſo twice one of the Lords Juſtices, during his Majeſty's abſence in his *German* dominions, and died in 1721. He was Grandfather to the preſent Duke.

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minary Heads. I know not whether you will preclude the Committee, by going ſo ſoon to this Vote. They are preparing the Heads, and will be ready with them preſently.

Mr *Wogan.*] Before you proceed to the Article of Inveſture, let the preſent nomination of the Prince and Princeſs of *Orange* be for life, *&c.* and the Heirs of her body, not as it was in *Philip* and *Mary.*

Mr *Boſcawen.*] We are upon as great an affair as ever was before a Houſe of Commons; and I hope we ſhall be unanimous. It concerns us for the dignity of the Houſe. It is worthy your conſideration, whether you will call the Committee down, or ſtay till they have done.

Mr *Hampden.*] Do not any thing in haſte. I would let the Committee conſider well what muſt be for the benefit of all poſterity, when you are dead and gone; and I hope your Reſolutions and Rules will be orderly. I believe all the Gentlemen are agreed what to do; but things of this nature cannot be done as with Counſel in a Chamber, and a Clerk only to write. In ſo great a buſineſs, pray let us do orderly things. You may call to the Committee, to ſee what they have done; or you may order them to go on, if they have not finiſhed.

Mr *Wharton.*] I am ſorry for ſo long a Debate of this. I would not go on without calling the Committee down; but would not loſe all theſe Heads the Gentlemen are doing, but act as a wiſe Aſſembly.

The Lords ſent down the following Vote, and Oaths to be taken, inſtead of the Oaths of Allegiance and Supremacy, *&c*; to which they deſired the Concurrence of this Houſe:

[" *Die Mercurii, 6 Feb.* 1688.

" *Reſolved*, by the Lords Spiritual and Temporal, and aſſembled at *Weſtminſter*, That the Prince and Princeſs of *Orange* ſhall be declared King and Queen of *England*, and all the dominions thereunto belonging."

"I *A. B.* do ſincerely promiſe and ſwear, that I will be faithful, and bear true Allegiance, to their Majeſties King *William* and Queen *Mary*. So help me God.

"I *A. B.* do ſwear, that I do from my heart abhor, deteſt, and abjure, as impious and heretical, this damnable Doctrine and Poſition, that Princes excommunicated or deprived by the Pope, or any authority of the See of *Rome*, may be depoſed or murdered by their ſubjects, or any other whatſoever: And I do declare, that no foreign Prince, Prelate, State, or Potentate, hath, or ought to have, any Juriſdiction, Power, Superiority, Preheminence, or Authority, Eccleſiaſtical or Spiritual, within this Realm. So help me God.

"That theſe Oaths be taken by all perſons, when tendered to them, of whom the Oaths of Allegiance and Supremacy —— * be abrogated."]

In the Afternoon.

Sir *George Treby* reports Heads from the Committee †, *&c.* The Committee were divided in opinion, whether you ſhould declare "That no Pardons ſhould be pleadable to an Impeachment in Parliament," nor would countenance Pardons to perſons who may not have deſerved them, nor for recording the Heads in Chancery, till you reſolve what uſe to make of them.

Sir *Robert Sawyer*.] Now you are providing new Laws for your future ſafety, 'tis proper to mention a new one, *viz.* "That no Popiſh Succeſſor ſhall be capable to inherit the Crown of *England*, and no Papiſt capable of ſucceeding to the Crown."

Col. *Tipping*.] If the Prince and Princeſs of *Orange* and Princeſs *Anne* die without iſſue, the Crown will deſcend to the Queen of *Spain*, and the Pope may diſpenſe with Religion, and the Dutcheſs of *Savoy*. Therefore I move, "That none that have been Papiſts ſhall be capable to inherit the Crown."

Col. *Mildmay*.] I would have it, "Have been, or ſhall be, a Papiſt."

Sir *John Guiſe*.] You have agreed the Throne to be vacant, but have had no conſideration when you will fill it; and then will be the moſt proper time to conſider this.

* So in the Journal.

† See theſe Heads at large in the Journal.

Lord

Lord *Dumblaine.*] King *James* has had the misfortune to go out of the Throne. I have been always againſt electing a Monarch, and againſt coming into a Commonwealth; therefore I would firſt fill the Throne. It cannot be filled unleſs vacant. I aſk pardon for my miſtake the other day, in my Vote, "that the Throne was not vacant." I have great obligation to [the Prince] and have ſhowed my duty to him—You cannot do too much for him.

Sir *Robert Howard.*] I would leave out the word "ſhall, *&c.*" There is a great deal of difference between one that turns when the ground is falling under him, and one that longer ſince has given good teſtimony of his Religion. I would not have you ſo penned up as to exclude all poſſibility of converſion.

Sir *John Guiſe.*] There is a great deal of difference between a Peer (in his converſion) that has a ſingle Vote in the Lords Houſe, and the King, that has his Negative Voice in paſſing Laws.

[*Reſolved*, That Proviſion be made for the Settlement of the Crown, that no Papiſt may ſucceed or be admitted thereto; nor any perſon that hath made or ſhall make profeſſion of being a Papiſt.]

Mr *Sacheverell.*] I would go farther than to declare the Prince and Princeſs of *Orange* King and Queen: I would declare who ſhall have the Adminiſtration of the Government, if they divide; and then, whither the Government ſhall go after. I would never leave it precarious.

Mr *Paul Foley.*] I ſecond the laſt Motion. If the Prince and Princeſs of *Orange* be declared King and Queen, in the nature of joint tenants and ſurvivorſhip, and not in intention to put by the Lady *Anne*, I agree to it. I would have them declared for their lives, and the longer liver of them; and declare the Entail afterwards.

Sir *Robert Sawyer.*] I would declare him King in her right.

Sir

Sir *Richard Temple.*] I am ready to agree to fill up the Throne, as the Lords have propoſed. If you declare any body King, the queſtion is, whether you will not come too late. I thought it your intention, when you filled the Throne to do theſe things, which will be too late afterwards. You are told, when once the King is in the Throne, without Limitation, it is to him and his Heirs. If you declare them King and Queen, either the Prince is in right of the Queen—How will this be underſtood? If he be King *de facto*, it is more than you intend. Such Limitation as to preſerve the Right to the Princeſs and her Heirs—I would ſtay there, but let the Committee add, "We know none ſo fit as the Prince and Princeſs, and therefore we take the Crown to be fitter to be truſted with nobody than him who has delivered us." If they be declared King and Queen jointly, no Diſpatch nor Letter can be ſent but muſt be jointly by the Prince and Princeſs.

Col. *Birch.*] I move you to draw up a ſhort Inſtrument of the Heads of your Intention, to be comprehended within that Inſtrument.

Mr *Sacheverell.*] I do not ſuppoſe this Inſtrument of Government to be a new Limitation of the Crown, but what of right is ours by Law. Settle us in ſuch a ſtate that we may deſire the Prince of *Orange*. We ſhould make no Concluſion before the Premiſes are agreed.

Sir *Thomas Lee.*] The matter ſingly before you is, the Report from the Committee. It propoſes a method of Declaration of the Rights of the Subject to go along with the Declaration of filling up the Throne, and there it will fall naturally. I would adjourn till to-morrow, and poſtpone the Clauſe of the Crown. As to what fell from *Sawyer*, if you adjourn the Debate, then the next thing will be to fill the Vacancy; and then how far this nomination of two perſons who ſhall have the Adminiſtration of the Government, that there be no ſtand in the Government, ſhall extend, whether

whether in his own right, or in right of his wife. 'Tis abſolutely neceſſary, when you agree with the Lords, to explain yourſelves in the Limitations.

Mr *Hampden.*] I agree with *Lee* to come to a reſolution, before you ſend to the Lords, after filling the Throne, and the Oaths being conſidered. 'Tis not only honourable but ſafe, and no dreadful conſideration in it; it may be ſoon done: But do not paſs it firſt, and explain it after.

Friday, February 8.

The Houſe took into conſideration the Vote of the Lords, [of the 6th of *February* inſtant, ſent down to this Houſe for their Concurrence.] *See p.* 71-2.

Serjeant *Holt.*] As far as I underſtand the Queſtion, I would concur with the Lords; but the Vote ſtands in need of an Addition, or Explanation, as to the Adminiſtration of the Government. Suppoſe only the Prince of *Orange* as Huſband to the Queen; he would have the Adminiſtration, as the power of the Huſband over the Queen, as Queen *Mary*, notwithſtanding theſe Articles. Then if the caſe be ſo of the King only as Conſort, it will be much more when the King is joint tenant. But to prevent all doubts, I would have the ſole Adminiſtration of the Government in the Prince of *Orange*, otherwiſe there will be confuſion in the Government; one may command one thing, the other another; and who ſhall be obeyed? And the Government may be loſt. I move, therefore, that the Prince of *Orange* may have the ſole Adminiſtration of the Government during the Coverture. 'Tis neceſſary that you come to expreſs the Limitation; unleſs you do ſo, ſome may make conſtruction that ſhe is Heir to her Anceſtor, and the Crown deſcends to her; therefore it is neceſſary to declare that the King and Queen, and the Survivor of them, have the Adminiſtration of the Government. What Eſtate then has the Prince in the Crown? He will have an Eſtate

of

of Inheritance without Limitation. If one ſits in the Lords Houſe by Writ of Parliament, if it be without Limitation, his Heirs ſhall ſit after him. I preſume it is not your intention, that the Limitation ſhall be to the Prince's Heirs by another wife. 'Tis your deſign to ſecure the Nation againſt Popery, and the ill conſequences of it. Therefore I would expreſs the Limitation mentioned, and ſo ſhall you ſhow your regard and kindneſs to the Royal Family, and you will be vindicated from all aſperſions abroad of deſtroying the Royal Family. The Prince has hazarded all for us; and if you make him Conſort only to the Queen, you will reduce him, upon her death, to a private condition. And this will be no gratitude to him that has redeemed us from our misfortunes. Therefore I would limit the Crown to him for life, (as above;) and thereby you will lay a foundation of ſecurity to the Nation.

Sir *Thomas Littleton.*] If the Adminiſtration of the Government ſhould only be in the Prince, the great deſign of the Kingdom will be fruſtrated. The power of the Parliament of *England* being once aſſerted, it will eſtabliſh our foreign affairs. If it be not a time now to ſtrengthen our Intereſt againſt *France*, we ſhall never be preſerved, but fall into the ſame misfortune we were in, in the late King's time: And I would have *Ireland* inſerted into the Lords Vote.

Mr *Boſcawen.*] I am not againſt inſerting *Ireland*; but obſerve that the Debate be whole. But why will you leave out *France*, *Jerſey*, *Guernſey*, and *Sark?* I would put it into the former ſtyle, *France* to precede *Ireland*; let it be drawn into form by the Long Robe, as to Entail of the Crown, and all the reſt that follows.

Mr *Hampden.*] If you go on thus from word to word, you will loſe all your time, and change often. I would debate it firſt, and then, upon the inclination of the Houſe, draw it up according to your Amendment. I would not leave out *France*, *valeat quantum valere poteſt*, and the Limitation of the Crown, as has been propoſed.

propoſed. Gentlemen may debate upon it as long as they pleaſe, and then you may draw up one entire Vote.

Sir *Richard Temple.*] If after Debate you ſhall have ſuch Amendments as cannot be made at the Table, then ſome Gentlemen may withdraw to form it. None of the Motions are oppoſed, to continue the Regal Style and Title ſtill to all the Dominions mentioned. If all are agreed in the main, ſome Gentlemen may withdraw to put it into form.

Mr *Garroway.*] This muſt be commited at laſt, but let the Debate go on, to give the Committee a handle to proceed upon your direction, and it will go current. The Lords have voted' "That the Prince and Princeſs ſhall be declared King and Queen of *England.*"

Sir *Thomas Clarges.*] The Queſtion is agreed; but I would debate the Qualifications. 'Tis moved, "that the Adminiſtration of the Government ſhall be for the Prince's life." Suppoſe, upon any military occaſion, the Prince ſhould be out of the Kingdom, ſhall not the Adminiſtration, *&c.* then be in the Princeſs, during that time? The Act of Parliament of the 1ſt of *Philip* and *Mary* is worth your conſideration. I would look over that Statute; and I think what I offer is fit to be received.

Sir *Henry Capel.*] I am glad the Houſe is ſo unanimous in this great affair. Says *Clarges*, "In the abſence of the Prince, the Adminiſtration of the Government ſhould be in the Princeſs, *&c.*" We have ſeen that caſe, and it is no extraordinary thing at all. 'Tis neceſſary that the Adminiſtration be in one man, and no perſon in *Europe* more fit than the Prince. I offer only, becauſe ſeveral Entails are mentioned, "that after the Prince and Princeſs, to the Heirs of the Princeſs; and for default of her Heirs, to Princeſs *Anne*, *&c.*; then, after her Heirs, to the Heirs of the Prince of *Orange*; and after them to be left indefinite."

Sir *George Treby.*] As to *Clarges*'s Motion of "the Prince going out of the Kingdom," there is no great need

need to provide for that, for the Law has done it already. The King may conſtitute a *Locum tenens*, and 'tis moſt probable he will conſtitute his Conſort. In the Limitation of the Entail of King *Philip* and Queen *Mary*, it was to the Heirs of her body, the Remainder to the Heirs at Law; and now with this ſpecial Proviſo, excluding all Popiſh Succeſſors.

Sir *Chriſtopher Muſgrave.*] To the Motions, after the Entail mentioned, I do entirely concur, and then to be left indefinite. As for the other Motions, you may paſs them over in ſilence. I am for the Gentlemen of the Long Robe to withdraw, and pen the thing moſt to your ſenſe: But it will much expedite the work, if, before they withdraw, you ſet down the particular Amendments you make to the Lords Vote in your Paper, that they may concur with the ſenſe of the Houſe.

Serjeant *Maynard.*] Sometimes the perſons conſtituted to manage the Government in the King's abſence are called "the King's Lieutenants;" ſometimes "Guardians of the Kingdom." Though the King go abroad, yet the Government may go on. I have often ſeen, when there has been an unanimous conſent of the Members in a thing, that Gentlemen need not withdraw, but it may be mended at the Table.

Sir *Thomas Clarges.*] I know, by the Law of the Land, the King in his abſence may conſtitute a *Cuſtos Regni*, and in 1 *Philip* and *Mary* it was limited by that Act. Conſider then, whether it may not be enacted, that the Queen be *Cuſtos*, *&c.* in her own right, and not at the pleaſure of the King.

Mr *Pollexfen.*] I know that the Law of the Land has ſufficiently provided for the Government, in caſe of the King's going beyond ſea. Here you go about to make an Alteration of the Law, in appointing a *Cuſtos*, *&c.* Suppoſe the King and Queen have a mind to go beyond ſea, which may probably happen; or if the Queen cannot, by ſickneſs, undertake the Regency; if the King cannot provide againſt this, you break into

into the Laws; the King being actually King, and the Queen actually Queen: Will you alter your Law already made? We are all of one mind; therefore ſpend no time, but appoint the Committee to draw up Amendments to the Lords Vote — *(Which was done accordingly.)*

Mr *Somers* reports from the ſaid Committee ſeveral Amendments to the Lords Vote. *(See the Journal.)*

Sir *Robert Howard.*] I am not for entangling the matter. Though we are in haſte to ſettle the Rights of the people, yet the next beſt thing is to ſupport them. I would make a declarative part of your known Rights, and cauſe the Committee to make a Connexion of your Rights.

Serjeant *Maynard.*] 'Tis clear they are your own Rights; you declare, and the Lords muſt have time to conſider of them.

Sir *Richard Temple.*] I am for ſaving time, and explaining what is deſigned to do, *viz.* your declaratory Rights you have paſſed, and thoſe are connected with your Vote; and the Prince has ſet them out in his Declaration; but where you deſire new Laws to be made, it muſt be done by itſelf. You will not go up with your Vote to the Lords, to declare the Prince and Princeſs King and Queen, and nothing with it. If you will give the Committee leave, they will connect it all at once.

Major *Wildman.*] No man is more zealous to aſſert our Rights than I am; but conſider, if there be ſuch a neceſſity to ſend them to the Lords, and they muſt examine them paragraph by paragraph, and perhaps they may ſay they have Rights of their own Peerage that are not provided for, in what manner can we concur with the Lords in declaring the Succeſſion? Whether is it not expedient, that this Houſe carry to the Prince our fundamental Rights—And the Lords no way conſent—and we never part with one *punctum*

of

of them—Whether neceſſary at this time to wave the Lords, and ſend them to the Prince?

Mr *Hampden.*] I differ in this of aſſerting your Rights; I would do it in the beſt manner. But to object "that time will be loſt in ſending them to the Lords:"—Can a Houſe of Commons do things as a Warrant from a Juſtice of Peace is done? Conſider the progreſs of the Prince of *Orange*'s ſecond Declaration—No Remedy but a full Declaration of our Grievances in Parliament: But to go to the Prince alone, without the Lords! I remember, upon all occaſions, when your Rights have been aſſerted, that you have gone to the Lords. King *James* has done this and this, in violation of them; and you, therefore, preſent the Prince of *Orange* with the Crown. Is it not natural to preſent the Prince with what you are aggrieved with, and ſuffer, under all theſe Infringements of your Rights? Yet you delay ſending them, becauſe the Commons fear the Lords will not agree to them. When do you think the Lords will agree? Are not the Lords concerned as well as you? And with this prejudice to the Lords, you will ſend them no Acts of Parliament: You would do it, and have no time to do it. Can it be better done, than when you preſent the Crown connected with this, becauſe the Prince has protected you, and you have an entire confidence in him? It may be ſaid, you have no great mind to your Rights, for they can ſtay for them, you ſee: As you deſire the reputation of a grave and wiſe Council, that repreſent the Kingdom, let the Committee connect the Heads of the Articles, and repreſent them all together.

Mr *Eyre.**] I would not prevent going to the Lords with the Heads of your Articles. If you divide theſe Papers, the Lords may agree to us in one, and not in another; and may you not be told, that theſe things are ancient Flowers of the Crown, and cannot be parted with? I would not have our purchaſe, like the *Indians*, to give Gold for Rattles. I would have the King and Queen rule in the hearts of their ſubjects,

* Soon after made a Judge.

and

and the Harmony betwixt the Crown and the People tune together. Had you given the Committee that power to connect both together, all this Debate had been ended.

The Committee reported the Inſtrument of Government, with the declaratory Grievances, to which, with ſome Amendments, the Lords agreed.

[*February* 9, Omitted.]

Monday, February 11.

Mr *Somers* reports the Lords Amendments of the Articles, at Conferences.

Sir *Thomas Lee.*] This does ariſe from a miſtake. Informations in the *King's-Bench* in our Paper were laid in King *James*'s time; whereas they began in King *Charles*'s.

Mr *Pollexfen.*] The word "Information" ſhould have been "Proſecution."

Sir *George Treby.*] I would conſent to explain it, but not to leave it out. This Article was put in for the ſake of one, once in your place, Sir *William Williams*, who was puniſhed out of Parliament for what he had done in Parliament; and by divers other arbitrary and illegal Courſes. I hope you will not leave out "cloſeting the Members of Parliament."

Serjeant *Holt.*] "Informations" cannot ſtand in the plural, proſecuted in King *Charles* the IId's time. As for that Proſecution of Lord *Peterborough* of the *Scandalum Magnatum quam tam*, &c. 'twas a private Action, and not an Information, whereby the King had no Damage.

Sir *William Williams.*] All that matter did ariſe in Parliament, and the Proſecution in King *James*'s time, and I was fined 10,000 *l.* and damage to the Party. There is the caſe of Lord *Lovelace*, and the caſe of Lord *Devonſhire*. The caſe of Lord *Lovelace* was upon a recognizance, and he pleaded privilege of a Peer, *&c.*

Mr *Eyre.*] I am for aſſerting our Liberties, but unneceſſary delay will wound the Nation we come

hither to heal. All we provide for is againſt Informations for what is done in Parliament. I would agree with the Lords.

Sir *George Treby.*] This will be declaring that *Magna Charta* is *Magna Charta*, redreſſing what was never violated.

Mr *Howe.*] The door was opened in King *Charles* II's time, and the goods were ſtolen in *James* II's time. As great a door, nay greater, was opened to Popery in *Charles* II's time than in *James* II's. And if we may judge greater things by ſmall, under the Popiſh Kings there was leſs partiality than thoſe that came in, in their ſtead. Not to be tedious as well as impertinent, I would leave that clauſe out.

Sir *William Pulteney.*] I believe this doctrine of queſtioning Parliament-men was begun in *James* I's and *Charles* I's time.

Serjeant *Maynard.*] The great Act for ſecurity of Religion, and of the whole Nation, which makes a diſability upon any Papiſt to take an Office or Employment, was taken away by the Diſpenſing Power.

Serjeant *Holt.*] I conceive you cannot agree to omit the word "Diſpenſe," which was the great and crying Grievance of the Nation. Eſpecially in the caſe of Sir *Edward Hales*, to let in Papiſts to Employments againſt an Act of Parliament. From a Diſpenſation to a particular Perſon, it would come to a general Suſpenſion. The Lords take no notice of *Hales*'s Diſpenſation. Diſpenſation in any caſe has no ſolid foundation in Law; it may vacate all Grants. I agree to have the word qualified, but not totally left out.

Sir *Thomas Lee.*] Prohibition of Importation of Wool and Logwood were diſpenſed with to one in favour. All theſe things have begun upon low beginnings. I give only general Inſtances.

Mr *Finch.*] I cannot agree with the Lords in leaving out "Diſpenſation *." Diſpenſation was to the

* The Lords gave this Reaſon for leaving out "Diſpenſing, *&c.*" "It might in ſome caſes tend to the prejudice of the Subjects Patents depending upon *Non obſtantes*."

Act

Act of Uniformity before Suſpenſion, which was actually done in the Declaration. Suſpenſion had an ill beginning in Error, and therefore had no foundation. 'Tis dangerous to ſay that all power of Diſpenſing is illegal; you may undo many perſons. 'Tis not a proper way of remedy to ſay that all power of Diſpenſing is illegal.

Serjeant *Maynard.*] Conſidering the ſhortneſs of the time, and the danger we are in, I would agree with the Lords'; but I would make a Declaration, that it be conſidered in another Parliament.

Major *Wildman.*] Diſpenſations are rather *permiſſa* then *licita*, and the foundation not good from the beginning.

[*Wedneſday, February* 13.

The Lords and Commons agreed "That the Prince and Princeſs of *Orange* ſhould be proclaimed King and Queen of *England*, *France* and *Ireland*, *&c.* to hold the Crown, *&c.* during their Lives, and the Life of the Survivor; the Regal Power to be exerciſed by the Prince; and after their Deceaſe, the Crown to devolve to the Heirs of the Body of the Princeſs; in Default of ſuch Iſſue, to the Princeſs *Anne*, and the Heirs of her Body; and for Default of ſuch Iſſue, to the Heirs of the Body of the ſaid Prince of *Orange.*" And they were accordingly proclaimed King and Queen the day after (the 14th) with great ſolemnity, both Houſes of Parliament attending in the Proceſſion.

Friday, February 15.

The Speaker reported, That what his Majeſty was pleaſed to ſpeak on *Wedneſday* laſt to both Houſes, (when they preſented to the King and Queen their Declaration of Right *) was to the effect and in the words following: "This is certainly the greateſt proof of the Truſt you have in us that can be given; which is the thing which makes us value it the more; and we thankfully accept what you have offered to us.

* Both Houſes of Convention in a full body attending their Highneſſes in the Banqueting Houſe, this great Inſtrument was read with a loud voice by the Clerk of the Crown; after which the Marqueſs of *Halifax*, Speaker of the Houſe of Lords, made a ſolemn Tender of the Crown to their Highneſſes, in the Name of both Houſes, the Repreſentative of the Nation. *Echard.*

" And as I had no other Intention in coming hither than to preſerve your Religion, Laws, and Liberties, ſo you may be ſure that I ſhall endeavour to ſupport them; and ſhall be willing to concur in any thing that ſhall be for the good of the Kingdom, and to do all that is in my Power to advance the Welfare and Glory of the Nation."

And that thereupon the Lords and Commons went immediately to proclaim the King and Queen.

Reſolved, That the humble Thanks of this Houſe be returned to the King and Queen, *&c.* for their Majeſties gracious Anſwer.

Adjourned to *Monday*.

Monday, February 18.

His Majeſty acquainted both Houſes in a Speech, reported by the Speaker, " That the Condition of his Allies abroad, and particularly that of *Holland*, was ſuch, that without ſome ſpeedy Care they would run great Hazard. That the Poſture of Affairs here required alſo their ſerious Conſideration; and that a good ſettlement at home was neceſſary, not only for their own Peace, but for the ſupport of the Proteſtant Intereſt both here and abroad: That, particularly, the ſtate of *Ireland* was ſuch, that the Dangers were grown too great to be obviated by any ſlow Methods. The moſt effectual ways to prevent theſe Inconveniences, and the forms to bring theſe things to paſs, muſt be left to them."

Thanks, *&c.* were voted to his Majeſty.]

Tueſday, February 19.

In a Grand Committee on the King's Speech.

Mr *Medlycott*.] To prepare ourſelves againſt any foreign Invaſion, or inteſtine Troubles at home, there will be a neceſſity of raiſing Money, which muſt be done in a parliamentary way. And if we ſtay to call a new Parliament, it will be too late; therefore I move to turn this Convention into a Parliament. This being not convened in the Royal Name, I hope formalities will not be inſiſted upon to loſe the ſubſtance. Reſolving ſuch an Aſſembly into a Parliament is not without Reaſon nor Precedent, both

both formerly and lately. After the Death of *William* the Conqueror, *Robert* being in *Normandy*, *William Rufus*, the ſecond brother, was declared King, by a mutual ſtipulation betwixt the King and People, in the nature of *Magna Charta*. In the 12th of King *Charles* II, a Convention was called at that King's inſtance when beyond ſea: 'Twas called by deſire of the King, when at *Breda*, and after 'twas convened ſeveral Acts paſſed; ſome were confirmed by the ſubſequent Parliament, and ſome not; and thoſe not confirmed were thought valid by the Judges. I infer from thence that the Subjects may upon emergencies meet as well as if called formally by Writ, when forms cannot be had; and move to have an Act to declare this a Parliament to all intents and purpoſes.

Sir *Robert Sawyer*.] We are to conſider the King's Speech, *&c.* for a ſpeedy Settlement of the Nation; and the only way to come at this is a free Parliament; and Money being the great matter to conſider of, it cannot be raiſed without a Parliament. There are ſome Precedents ſpoken of, which, if they would at all come up to our caſe, I ſhould agree to. What is mentioned of *William Rufus* is miſtaken as to the caſe of a Convention. There was no Parliament ſeven days after he was elected: *Lanfranc*, Archbiſhop of *Canterbury*, and the reſt of the Biſhops and Clergy, were eſpecially concerned in it, and by them he was declared King. As for the Precedent ſpoken of, of the Convention in *Charles* II's time, that Convention was originally a Parliament, and by the ſeal of that time called to meet in Parliament, and had all the formality of the conſent of the People; nay every Act of Confirmation, in the ſubſequent Parliament, ſtyles them a Parliament at their firſt meeting; they were called by the Government *in eſſe* at that time, and were returned as ſuch; and to this Parliament, before they did any thing, the King ſignified his Approbation of their meeting; and when the King came into *England*, he called them

a Parliament. There was then a King *de Facto*, and a Government *de Facto*, and by his conſent 'tis a Parliament, and that gives it the virtue of a Parliament. The calling it one way or other alters not the caſe; but the ſingle thing I inſiſt upon is the People's conſent. We repreſent the People to this ſpecial purpoſe; that now, upon King *James*'s withdrawing, we are called hither to ſupply that defect; and we can proceed no farther, till a free Parliament with the People's conſent be called. If this body may continue to act as a Parliament, without breach of Elections of the People, I ſhould be for it. It cannot be done unleſs we break our Truſt. Therefore as that of *Charles* II. was a Parliament by the King's conſent, therefore I move that the King may be adviſed to iſſue out new Writs to call a Parliament.

Mr *Boſcawen.*] I appeal to the Houſe whether *Sawyer* be miſtaken, or no, in ſeveral things he has ſaid. I will ſay farther, that the People, who ſent us hither, do not only aſſert the Goverment, but would have us prevent running back from whence we came; and now that we are got to the Top of the Hill not to let all fall! I have not contributed to invade the Liberties of the People, and am as far from it as that Gentleman. But that Convention which brought in *Charles* II. was not ſo much a Parliament as this Convention. A Parliament is nothing but *parler le ment.* That Parliament was called by ſome Members included, and ſome excluded, the Long Parliament, by the Seal from the Keepers of the Liberties of *England*; and then with ſuch Limitations, that ſuch and ſuch were only to be returned, as if they were taking Teſts; none that had been engaged in the King's party during the War, nor the ſons of them, unleſs they had given Teſtimony of their Affections to the Government; which renders that Parliament as far from freedom of choice, as white is from black. And in the Bill for Triennial Parliaments, the Chancellor was of courſe to iſſue out Writs, and for defect of his iſ-

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ſuing them out, the Officers of the Country were to do it by themſelves; from whence I gather that their is no ſuch eſſential thing as a Writ for chuſing Members. If you take the Advice of the learned Gentletleman (*Sawyer*) to call another Parliament, and diſſolve this, *Ireland* may be loſt; and the King of *France* would give 100,000 *l.* to accompliſh it. I am jealous there is a Snake hid in the Graſs, and that there is ſomething more in this, than we ſee. Conſider, if this be no Parliament, then you may ſuppoſe that the Throne never was vacant, and that 'tis now full; and how will you get a Parliament? And ſome look on the other ſide the Water. Upon the whole, I would conſider the relief of *Ireland*, and to aſſiſt *Holland*, which has helped to preſerve us, and take up this Debate for the preſent. No other deſign can be in this, but to put us all to ſtand upon our guard again, and fight out our way, and be upon no bottom: If we retract, and go ſo far as is moved, we ſhall be all ruined, and go back again to our misfortunes.

Sir *Thomas Clarges.*] I am not of *Boſcawen's* mind. I hope I may ſay I never did any thing to infringe the liberties of the People; and though the wind has been in my face, Gentlemen that were never in the Parliament before know, whither this matter may be carried. In the two laſt reigns, there was making diſtinctions of Perſons here; we were reproached that we voted againſt the King, when we gave our Votes freely according to our Judgments, and that, by theſe Practices, we repreſented but part of the People, and not the whole Nation. I meant no otherwiſe than that the King ſhould govern well. I brought in the *Habeas Corpus* Bill, and what I ſay now is with my conſcience and mind. As to what is now in Debate, I hope we may have a free-choſen Parliament in twenty five days, the formality of forty days from the Teſt of the Writ to the Election not being neceſſary. In the Aſſembly at *London* before this Convention, the propoſition was, how the Prince of *Orange* might come to a free Par-

liament. 'Twas adviſed, that Letters ſhould be ſent from the Prince into the Counties and Boroughs, *&c.* in order to the Choice of a free Parliament; and I gave my Voice for it preparatory to that: And ſince it has been voted here, that the Throne was vacant, I am ſatisfied, though I was then againſt it. I queſtion whether, upon this change, our Alliances do ſubſiſt againſt that great Monſter the *French* King, who invades the *Hollanders*—I hope the Revenue, which is 2,200,000 *l.* may ſupport *Ireland*—When you met the 22d of *January*, and propoſed that the Prince ſhould have the Adminiſtration of the Government, you omitted one great thing; *viz.* to adviſe him to poſſeſs himſelf of the Revenue. I propoſe now that all the Revenue of *James* II. may be uſed by the King, and there will be no fear of running back from whence we came, as you have been told; but by not calling a Parliament, we put all to hazard, and that the Money we ſhall raiſe will not be paid; and will the Judges in *Weſtminſter-Hall* declare this to be a Parliament? I ſat in the Parliament of 1660, which had Qualifications from the Members, but they were not obſerved. 'Twas ſummoned in *March* to meet the 25th of *April*—Here was then a King *de Jure* kept out by wilful means—The Convention, in 1660, had Letters from the King, who recognized them a Parliament, and it was never called a Convention by the King, nor by any Act of Parliament; and the Acts afterwards ran "Whereas by Act of Parliament, *&c.*" Lord Chief Juſtice *Hale*, who ſat in that Parliament, was of opinion, it was a Parliament, and that they were under the truſt of the People, and the Writs that called us, were not called "no Writs;" and if you make this a Parliament, you elude the Prince's Declaration, which ſays, "No Money to be raiſed but by Parliament." Can it have any other meaning than that Writs ſhall be iſſued out to chuſe a Parliament; and ſhall we give occaſion to ſay that the King enters into the Government by Prerogative, and our parting with our Privi-

Privileges? It has been ſaid, "How can we have a free Parliament choſen in time? The neceſſity of affairs cannot bear it." I can conſent to an Ordinance, or any declaratory Inſtrument, that the Oaths and Teſt ought to be taken by Members, before admitted: And when a free Parliament ſhall meet, I doubt not but they will ratify what we ſhall do; and now, that there is a Revenue for the preſent neceſſity of affairs, and a new Great Seal now made to iſſue out Writs of Summons, who would put this upon a mere point, whether this be a Parliament, or not?

A Bill was ſent from the Lords to prevent all doubts and diſputes, which may ariſe concerning the aſſembling and ſitting of this preſent Parliament; which was read the firſt time.

Mr *Hampden.*] I hope this Bill will tend to your Settlement. I obſerve, the Lords make it more frequent to read Bills twice in a day than here. The Houſe of Commons are always ſtrict to their Order; and I would not be thruſt on by the Lords to haſten the reading this Bill. I move, that it may be read again to-morrow morning. [*Which was ordered.*]

Sir *Edward Seymour.*] I ſee Gentlemen ſpeak here under great diſadvantages. If they are not free in this Convention, what ſhall we do in Parliament? When Gentlemen ſpeak with Reflections, and cry, "Hear him, hear him," they cannot ſpeak with freedom. I ſpeak not this to the Chair (the Speaker) who keeps Order well, but to what paſſed at the Committee. Shall you put it into the power of the Lords to lay aſide any of your Debates, by ſending you a Bill down? I would not remove Land-marks to Poſterity. If you are ſatisfied that this is not a pretended neceſſity, but really; not in name, as the Ship-money was made, of neceſſity, which diſturbed all your Laws, I would have you leave the Chair, and go into a Grand Committee, for freedom of Debate, to eſtabliſh our ſecurity upon a good foundation. 'Tis not four or five hundred Votes can do it; but to arrive at the knowlege of this matter, I deſire to go into a Grand Committee.

Sir

Sir *Henry Capel.*] The Chair has taken care of Order; and I have ſeen no diſorder to-day. When *Seymour* was in the Chair, I have heard "Hear him, hear him," often ſaid in the Houſe. *Seymour* ſays, "He would not have us tied up by the Lords to what they do." I take it, the Lords and Commons are to take care of the Government, and we ought to agree with the Lords as ſoon as we can. Had the Committee begun upon Heads, we might have gone on; but by degrees we are gone into the matter of the Lords Bill. *Seymour* told you, "That it was neceſſity that firſt brought on the Ship-money:" But it was the practice of ill Miniſters and Lawyers, who turned old Rolls to ill Interpretation againſt the Liberties of the People. If ever there was a neceſſity to warrant making us a Parliament, there is one now. Are we in Peace? Is the ſtate of *Chriſtendom* in ſo good a caſe as we can boaſt of? *Seymour* tells you of "the Great Man of War." If you ſit not here as a Parliament, the King of *France* will give Millions to make a Separation in the Nation.

Sir *Thomas Clarges.*] I am called up by what fell from *Capel* about Peace, *&c.* I hear no War declared yet, but I would put nothing to hazard: You may have a Parliament in three weeks; and we are better juſtified in that than any other method. The Revenue for the preſent will ſupply *Ireland.* We have forces already in pay, beſides thoſe the King brought in. I am glad to ſee ſo many worthy perſons promoted to Dignities; and I believe they will preſerve our Privileges—But as to the method lately taken, to make diſtinctions, and to be pointed at in *Weſtminſter-Hall*, as one of the hundred and fifty againſt the Throne vacant; to have printed papers of men of one ſide and the other; yea, the Peers,—I hope the Gentlemen of the Council will prevent theſe diſtinctions.

Mr *Hampden.*] We are collaterally launching into what is not reſolved on by the Houſe; to talk of the Formality of calling a Parliament in leſs than forty days—

days—But pray keep your own Formalities. The Motion to adjourn the Debate muſt properly be put; or put any thing regularly, and I will ſerve you to an *And* and an *I*. If you debate this, you would all day long debate what you reſolve not, *viz.* Whether you will debate it, or not.

Sir *Robert Howard.*] You have already reſolved to read the Lords Bill to-morrow, and then the proper Debate will ariſe that you are upon to-day. I have heard no arguments to-day to diſcourage the Debate. We are obliged to read the Lords Bill a ſecond time. Put the Queſtion for Adjournment.

Sir *Richard Temple.*] I hope we may arrive at all the ends that any Gentleman can deſire. To-morrow, at the Grand Committee, you will have all the freedom of Debate you can deſire; and I would not anticipate the Debate till it be regularly before you. But it is a ſtrange thing I hear from *Sawyer*, "That we cannot ſpeak for the Bill at the firſt reading," which you may throw out. Is it not a hard thing to ſpeak againſt it, and not for it?

Sir *Chriſtopher Muſgrave.*] Gentlemen tell you, that the Queſtion is, Whether adjourn, or not: But with great ſubmiſſion, I affirm, Reaſons may be given why you ſhould not adjourn. You are told, "When you read the Bill to-morrow, you have the ſame liberty as now;" but then your Bill is to be committed by a Queſtion, and that is gaining the point. The point then is only agreeing with the Committee; but when it comes to the Houſe, you may throw it out, or not. 'Tis a matter of the greateſt conſideration, that there ſhould be freedom in Debate. Some men can declare their thoughts at one time; others are not ſo happy, but muſt ſpeak oftener. If then it be neceſſary to ſpeak twice, God forbid but a Gentleman ſhould do it! But if not, no man here can believe you are inclined to make this a free Parliament. I would proceed to the conſideration of the King's Speech.

Sr

Sir *Edward Seymour.*] I ſpeak to Order. 'Tis not the Lords Bill you are upon by Order; 'tis the King's Speech, and you cannot reſtrain it.

Wedneſday, February 20.

Sir *Henry Capel* delivered a Meſſage from the King, to haſten the matters before the Houſe recommended in his Speech. After a long ſilence,

Lord *Falkland.*] The laſt part of the King's Speech ought to be conſidered firſt, as I take it. If we have not the power of a Parliament, we can go upon nothing. There are Precedents to juſtify the Lords Bill that they have ſent us. We have great works upon our hands; as that of the Relief of *Ireland*, and to aſſiſt our Allies, *&c.* and the Nation is in an unſettled condition. The Lords Bill is a foundation for us to build upon; and I move, that we may follow the Lords example.

Mr *Howe.*] We have had learned diſcourſes upon this ſubject yeſterday, and Precedents were brought us. If the matter ariſe upon what is Law, I ſhall not ſpeak to that part, nor what has been done formerly, but to what is fit now. I reſpect our Anceſtors, who always followed the neceſſity of affairs. 'Tis unreaſonable in a ſick man not to take any phyſic but what has been preſcribed him formerly. We are come out of the greateſt tide; and, to prevent the danger, let us throw a good defence againſt it; but if we cannot make a perfect one, it is our malicious enemies that throw it down. The *French* King was ſo formerly, and our own late King, a Papiſt, now in *France.* There is a certain ſort of Loyalty, called "Paſſive Obedience," preached by ſome of our Clergy, who would pick holes in our bank to keep out the tide. They ſay, "Neceſſity has no Law;" let us make one for it, and agree to the Lords Bill.

Serjeant *Maynard.*] I do not wonder that men are ſilent in a matter of ſo great conſequence. On the conſe-

conſequence of this Debate to-day will not only be the ſafety of the Nation, but the Proteſtant Religion abroad. We make not a ſtep, but we are told of errors in the method, ſtill to put a ſtop to it. Here has been a great ado about words, "the Crown vacant," and "Abdication." And we have been told what the People were, and "that we muſt look to our ſafety" (by *Sawyer*;) but you are paſt all theſe; and now you are moved to make this Convention a Parliament; but I think we are one already. What is a Parliament, but King, Lords, and Commons? Pray read the 1 Chap. of 12 *Charles* II. When the King came in, that Convention, (or call it what you will) *Reſolved*, "That, without a Writ from the King, they are a Parliament," notwithſtanding they had no Writ from the King. 'Tis grounded upon the greateſt Law in the World, the Law of the twelve Tables of the *Romans: Salus populi ſuprema lex eſto.* All Laws muſt give place to that Law: 'Tis the great Law of all Self-preſervation. Now read that Statute of the 25th of *April.* [*The Statute was read.*] When the King came in, the 20th of *May*, the Parliament had no Writ to call them. We ſat here, before this King was declared, and we are ſo far like that Parliament. I ſhall hearken to the Debate, and give my opinion.

Sir *Thomas Lee.*] I would not trouble you, but that I find you entirely at leiſure. Says *Maynard*, "You cannot make this a Parliament, becauſe you are one already from the beginning." If nobody be againſt it, pray let the Speaker take the Chair.

Sir *Robert Howard.*] Here ſeems a general ſatisfaction in what has been ſaid: Therefore report it to the Chair.

Sir *Edward Seymour.*] If I were ſatisfied this was a Parliament, I would not go about to offer reaſons againſt it. If I am put on that ſtreſs, to ſay my opinion, I will not juſtly move to exceptions. If I do not fully come up to their ſenſe, I hope they will give me their pardon, as I ſhall do to them. If you concluded

cluded " the Vacancy of the Throne," I am concluded by it. For the preſervation of the Proteſtant Religion, thoſe ways are moſt prudent that are moſt legal and laſting. This Bill from the Lords began there; on *Monday* it was twice read, and came down here on *Tueſday:* 'Tis a great rarity, and much done in little time; and I never ſaw a Bill of ſo different a nature. It makes every man in as high a nature criminal as the Law can make it. You declare yourſelves a Parliament, and the Law ſays, you are not a Parliament; and ſo we are all liable to the Statute of the Teſts, and all incapacitated to ſit here: And then thoſe who were for diſpenſing with the Penal Laws, and joined in thoſe things, you bring yourſelves under the ſame capacity. I would have the Gentlemen of the Long Robe tell you, whether, if you declare yourſelves a Parliament, you are not liable to the Statute. When it is neither legal nor prudential to do it, whether then is it neceſſary? That Statute, which *Maynard* mentioned, could not make that a Parliament which was none before. That Parliament had the conſent of the King *de Facto* and *de Jure*; there wanted only the King's Writ of Summons. If they ſay, you were no Parliament before, what Record will make you a Parliament now, is no where to be found. The Law requires, that the Sheriff return the Jury of *Niſi Prius*, and the Criminal, *&c.* who are not always the beſt men of the county. Suppoſe the Bench impannel the beſt men in it, there is the Subſtance, the Judge, and the Bench, but there is not the form. Neceſſity is a great commander, but an ill companion, and a worſe counſellor. And this Houſe muſt expect, in other caſes, never to want that argument. Some Precedents have been ſpoken of, to induce this method; one of *William Rufus*, (which is of no authority to govern you) how the Nobles did aſſiſt him againſt his brother *Robert*, who claimed the Crown; but that was no Parliament, nor had the power of a Parliament. The only Precedents mentioned are thoſe of *William Rufus*, and the 12th of

Charles

Charles II. They made not themſelves a Parliament, but in relation to the Long Parliament that diſſolved itſelf, and that done with a *ne trahatur in exemplum.* When the people are called together, by ſuch Writ as this, I am bold to ſay, there are no Precedents—It has been ſaid, out of doors, this is by the Precedent of *Edward* III. I find that matter totally miſtaken: *Edward* II. was driven out of the Kingdom by his ſon and his mother: He abſconded, and by a wind was driven into *Wales*, and her ſon was *Cuſtos Regni.* And the firſt Act of *Edward* III. does declare, "That, whereas the late Lord *Edward* II. by the general advice and aſſent of his Earls and Barons, had voluntarily removed himſelf out of the Realm, they declare *Ed.* III. Regent of the Realm." I would not, as other Gentlemen ſay, ſtick at Precedents, and think that you are as well qualified to make Precedents as to follow others. Yet there is no neceſſity to remove ancient Land-marks, and to let our purſes run out at the back-door. Our condition is attended with many difficulties; *Ireland* is in ill condition, and we hear nothing from *Scotland* but uncertainty. The King of *France* has been the Devil and walking Ghoſt in every Parliament. What could you expect from *Ireland?* They will own no obedience to the Prince of *Orange*, but when he is crowned. They are ſo far from coming to you, that they are driven from you. The perſon (*Hamilton* *) was ſo far

* Lieutenant General *Hamilton* was ſent over to *Ireland*. He was a Papiſt, but was believed to be a man of honour, and had great intereſt with the Earl of *Tyrconnel*. So he undertook to go over to *Ireland*, and to prevail with the Earl of *Tyrconnel* to deliver up the Government; and promiſed that he would either bring him to it, or that he would come back, and give an account of his Negotiation. This ſtep had a very ill effect; for before *Hamilton* came to *Dublin*, the Earl of *Tyrconnel* was in ſuch deſpair, looking on all as loſt, that he ſeemed to be very near a full reſolution of entering on a Treaty to get the beſt terms he could. But *Hamilton*'s coming changed him quite. He repreſented to him, that things were turning faſt in *England* in favour of the King; ſo that, if he ſtood firm, all would come round again. He ſaw, that he muſt ſtudy to manage this ſo dexterouſly, as to gain as much time as he could, that ſo the Prince might not make too much haſte, before a Fleet and Supplies might come from *France*. So ſeveral Letters were wrote over by the ſame manage-

far from bringing them over to obedience, that he makes it his endeavour to keep them from you. I ſpeak with good intention to the Proteſtant Religion in *Ireland*, which is in danger to be gone with him. Through all the courſe of my life, I had rather have unkindneſs than carry an ill thing about me. A great many Preliminaries ought to be thought of; you will not think fit that *England* ſhould be at all the Charge to reduce *Ireland:* You know formerly there were Adventurers, and you may raiſe a great deal of money that way. There are two ways to reduce *Ireland*; preſent ſupply of Arms, and Money; but, if not, ſuch as will preſerve you, and maſter them: They will be maſters of whatever you ſend, if you attempt, and fail in the attempt; and it will be hard to reduce it after. I ſpeak this, not thinking there is a neceſſity for Money to carry it on. The preſent Revenue will go a great way towards it, together with the public ſecurity; and no doubt but loyal *London* will ſupply their Prince upon this exigency, and will ſupply fully, rather than let the work ſtand ſtill. We are called as a Council, and may ſo continue; for we have no declared enemy, and are in a condition of Peace till War be declared; and there is none, and we have no League—Can we re-

nagement, giving aſſurances, that the Earl of *Tyrconnel* was fully reſolved to treat and ſubmit. And, to carry this farther, two Commiſſioners were ſent from the Council-board to *France*. Their Inſtructions were to repreſent to the King the neceſſity of *Ireland*'s ſubmitting to *England*. *Tyrconnel* pretended that, in honour, he could do no leſs than diſengage himſelf to his maſter before he laid down the Government. Yet he ſeemed reſolved not to ſtay for an anſwer or a conſent; but that, as ſoon as this Meſſage was delivered, he would ſubmit upon good conditions: And for theſe, he knew, he ſhould have all that he aſked. With this management he gained his point, which was much time; and he now fancied, that the honour of reſtoring the King would belong chiefly to himſelf. Thus *Hamilton*, by breaking his own faith, ſecured the Earl of *Tyrconnel* to the King, and this gave the beginning to the War of *Ireland*. Thoſe who had adviſed the ſending over of *Hamilton*, were much out of countenance; and it was believed that it had a terrible effect on Sir *William Temple*'s ſon, who had raiſed in the Prince a high opinion of *Hamilton*'s honour. Soon after that, he, who had no other viſible cauſe of melancholy beſides this, went into a boat on the *Thames*, near the bridge, where the river runs moſt impetuouſly, and leaped into the river, and was drowned. *Burnet.*

quire

quire any thing to be done, before the King be civilly dead, and parties not in being? I ſpeak not this to reflect on him that has done ſo much for us. I would not only have him paid the charge he has been at, but have *England*'s bounty too to go along with him. *England* has done formerly for *Holland*, as *Holland* has done now for *England*. But I ſhould be glad to ſee us a legal Parliament, that we may have the People's hearts along with us; and then we ſhall be ſure of their Money. As a Council, we may ſit, and repreſent to the King, that we are not impowered by thoſe that ſent us, and deſire him to iſſue out Writs to chuſe a Parliament. The Revenue laſt year was 2,100,000 and odd pounds; the expences 1,800,000 *l*; a large proportion of it to the Fleet; many Penſions, and for Secret Service; I hope we ſhall hear no more of that: Beſides the Privy Purſe 150,000 *l*. You have ſufficient for all your difficulties, and need not turn yourſelves into a Parliament for that. In the *Palatinate* War, you had a Committee to manage it—And you may have time to digeſt all for *Ireland*, and Writs may go out. In the mean time we may ſit as a Council, and this will bring us into no difficulties. I have delivered my opinion, and now do what you pleaſe.

Serjeant *Maynard*.] If *Seymour* ſpeaks confuſedly, I muſt anſwer him confuſedly. He ſeems to ſpeak with great reaſon at firſt ſight; but, looked into, 'tis juſt nothing. I will anſwer him to what is material as well as my old memory will run along with him. "When we cannot have a legal Parliament, how ſhall we poſſeſs that which is legal?" He ſpoke of the Statute, *&c.* and Teſts: The objection is true; no Parliament can ſit here, till they have taken the Oaths and Teſts: But, under favour, that will not come to our caſe; that Oath was to the late King, and now, what Oath can we take to a King out of the Throne? You remember what he did, and your Vote upon it. Can we ſwear ſtill? I hold it impoſſible to take that Oath, and that Act does ceaſe of itſelf. I do not ſay

we make ourſelves a Parliament. But if this be declared a Parliament by a Parliament of the whole Nation, who dares ſay againſt it? 'Tis impoſſible to take the Oath of Allegiance, without being perjured *ipſo facto*. I would have *Seymour* anſwer me, as I do him. Shall I ſwear to an impoſſibility? A man in a wilderneſs, and out of his way, aſks, Where is the high-way? That Gentleman cries, Where is the Law? When we cannot find it, we muſt have recourſe to the Law of Nations. *Salus Populi ſuprema Lex eſto.* Says *Seymour*, "There is no neceſſity to make this a Parliament; there is no King, nor any declared enemy beyond ſea:" But he that would deſtroy his own People for Religion, I am ſure, is no friend of ours. Is he not an enemy that receives all that go from us in diſcontent? I would not have you entangled with a fine Speech; I hope we ſhall not farther diſpute upon words, as we have done ſome weeks, but neceſſity puts us upon the beſt way we can take. All the event of this will be to make a difference betwixt the Lords and us. I will not ſay it is *Seymour*'s intent, but what greater difference can there be than when the Lords ſay we are a Parliament, and we ſhall ſay, we are not a Parliament? There is a great danger in ſending out Writs at this time, if you conſider what a ferment the Nation is in; and I think the Clergy are out of their wits; and, I believe, if the Clergy ſhould have their wills, few or none of us ſhould be here again; and never any Popiſh Prince but would not only be the deſtruction of the Proteſtant Religion, but the Proteſtants muſt go to pot; as in *France*, *Bohemia*, and *Hungary*; and all by the inſtigation of the Clergy. What is a Parliament then? The Convention was not called by the King's Writs legally, yet were declared a Parliament; and you will not declare yourſelves no Parliament, unleſs you are out of your wits.

Mr *Eyre*.] The matter you are upon is of great conſequence; therefore I hope you will purſue thoſe counſels which tend moſt to peace. The way to thoſe ends is full of difficulties. I ſhall not meddle with politic con-

conſiderations (with *Seymour*) but the proper matter now before you. The objections againſt the Lords Bill return upon them that made them. If we are not conſtituted a Parliament under theſe circumſtances now, we may never have one in *England* more—— 13 *Charles* II, "No Members are to ſit till they have taken the Oaths by the Statute 5 *Elizabeth*; and the Oaths not taken voids the Election:" Then all thoſe Elections were void; unleſs thoſe Acts are repealed, how will you ever come by it? Muſt not the next Parliament make themſelves one by a Law? But if a falſe ſtep muſt be made, why ſhould it not be by us, whilſt our wounds yet bleed, and not leave it to another body of men to heal, ſix weeks hence, and the wound paſt remedy? Being to build as of old, with weapons in our hands, as the *Jews* did, I would not lay them down till we have built in ſecurity. We are in an infant Government, if I may ſo ſtyle it; it muſt be preſerved by the hand that brought it up. Are we ſure our ſucceſſors will be of our mind? Nay, the preſent ferment of the Nation, which time may quiet, may be ſo hot as to give up their own ſecurity. The preſent neceſſity is great, as great as the ſupport of our Honour, Religion, and Countrv—Neceſſity abrogates all Laws. The Precedents of this, that are demanded, are not to be expected: 'Tis not in every King's reign that he abdicates the Government. As to the Precedents of *Edward* II, and *Richard* II, none of theſe come to our caſe immediately: Neceſſity gave them a ſanction; and where there is the ſame Neceſſity, there is the ſame reaſon. We are as full a Repreſentative as can be had; by the call of the Prince's Letters, we have the beſt Repreſentative of the People that could be had. Is the difference of a Writ and a Letter put into the ſcale with the ſafety of the Proteſtant Religion? We may *pay tythe of mint, aniſe and cummin, and neglect the greater matters of the Law.* Tares may be ſown whilſt we are abſent; which to prevent, and bring forth Peace, ſo luckily brought

to the Birth, I would have the Lords Bill read a ſecond time.

Sir *Robert Sawyer.*] As to what *Maynard* ſaid with reflection on the Clergy, I deſire to take off that reflection. They have as great a ſubmiſſion to your Vote as can be. I ſpeak of the Clergy of *Cambridge*. I had a Letter from *Cambridge* yeſterday, (the place I ſerve for) which gives me notice, that they are very well ſatisfied with what you have done; and if they had time, they would have petitioned for a Parliament to be choſen; and I have authority from them to let you know they are to give Money to ſupport the Government; and I know how to give my Vote. The Oaths muſt be taken, or elſe all we have done is void; therefore whether you will do it now like thoſe in authority.

Sir *Thomas Clarges.*] I ſtand up with great trouble. As I am now adviſed, if this Convention be turned into a Parliament, 'tis the greateſt diſſervice you can to the King. I would preſerve both his Honour and Safety. If any thing be wanting in the Revenue, nothing can ſupply it but a Parliament. You may have a Parliament in twenty five days; 1,200,000 *l.* may be raiſed for *Ireland* and *Holland*, all the charge of the Government, and for Proviſion for the Royal Family. We may ſpare a Million, if ſuch a Sum be requiſite, to aſſiſt us for the preſent, and for other things they may keep cold for a month. If this be ſo, we are not in ſuch Danger as to fly out of the Window. Some things neceſſity has drawn us into; thoſe are of the leaſt neceſſity; but to raiſe Money is the greateſt thing. I hope 'tis that the King expects from us, and that we are not truſted to do by thoſe that ſent us. If the Revenue for a month be employed, though War with *France*, an enemy to all Religion and Goodneſs—In the reign of *Charles* II, the Parliament did ſettle a Revenue on the King's two Brothers; the Officers of the Revenue told us, that it was not 200,000 *l.* a year. A great man told a ſtory, that a ſum of Money was

paid

paid, and wanted a Crown; the party would have told their Money, but the other would not let him. They would not let the Committee then examine it, for certainly they would have found it more. Where there is a neceſſity to give, I will give as plentifully as any body, but let us do it fairly, and by full Authority. As we are, we ſhall have no credit upon it; when we come again we may be a lawful Parliament; and I believe the people will ſend you again.—A merry man ſaid once in this Houſe, "Some can ſtop and turn managed horſes." As for the Clergy of *London*, they are as learned as any ſince the time of the Apoſtles. The Church of *England* brought us in *Charles* II, and ſtood conſtant in theſe laſt Tryals—I ever thought thoſe laws too hard to preſs mens conſciences—They ſtood like Apoſtles in *Magdalen* College caſe, which is remarkable—I hope the vacant Biſhoprick of *Saliſbury* * will be filled with one of that College. *Salus Populi* is *ſuprema Lex*, you are told, but if ever you break down the hedges of the Government—And properly we cannot agree with the Lords.

Serjeant *Maynard*.] There is only one Queſtion to be inſiſted on, whether we are a Parliament, and what we ſhall do when we are a Parliament. *Clarges* ſpeaks honeſtly, as I believe he thinks. As for the Clergy, I have much honour for high and low of them, but I muſt ſay they are in a ferment, there are Pluraliſts among them, and when they ſhould preach the Goſpel, they preach againſt the Parliament, and the Law of *England*—I did not ſpeak againſt the Clergy in general. I hear no man that ſeconds *Clarges*'s Motion; therefore put the Queſtion for reading the Lords Bill.

Col. *Birch*.] I have heard a Debate of this nature forty years ago, and I ſtand amazed at it: I will not bring the Precedents of *Edward* II, and *Henry* IV, to juſtify our proceedings, but what I remember of my

* Vacant by the Death of Biſhop *Ward*. Dr *Burnet* was advanced to it.

Knowledge. I hope we ſhall not fall under this Debate now, and not forty years ago, when we were under much harder circumſtances, when any little words dropt then, about the validity of that Parliament, they were ſmiled at, and not worth an anſwer. When *Oliver* was propoſed to be made a King here, that was laughed at then; and I believe this Debate will be ſo now. I intreat a little of your Patience; that of 1660 Parliament was not ſo clearly called as this. Cavaliers were excluded by thoſe that had power to do it, and they did it. 'Twas called by Writ from the Keepers of the Liberties of *England*, that brought us hither. Then all the learned Gentlemen here, Sir *Mathew Hale* and the reſt, were of opinion, 'twas a Parliament to all intents and purpoſes, and nothing of a Convention was ſpoken of; and to work they went, and very vigorouſly, and not one Queſtion was made of the legality of that Writ, and that Parliament gave two Aſſeſſments of 60,000 *l. per menſem*, before that Act came in to declare it a Parliament; but there was a great deal more done before the King came in, all the Acts that could be done that were neceſſary, and if one word was ſpoken againſt it, 'twas ſmiled at. That objection about the Oaths has ſome weight; but in that Parliament of 1660 not an Oath was taken: About ſix weeks after, the Duke of *Ormond* gave the Oaths to the Members, which was far from any Regularity; and at the opening that Parliament, there were not above eight or nine Lords in the Houſe. There was a Faſt ordered, and a Thankſgiving, and Conferences with the Lords, and not one word of queſtioning the validity of that Parliament; and now that God has done this for us, to make difficulties when really there is none, I cannot ſee them, from what has been practiſed. Now to ſhow you the Conſequence; for Money ſhould you ſtay for another Parliament, if you get one in three weeks, a Plot may be upon you, in the interim, and then you will have difficulties ſtill, and perhaps more than are on you now.

And

And will you, by throwing away this opportunity, void all the bleſſings God has given you? You have, by God's providence, a King that denies you nothing, and now we would be ſcrambling again for Religion. I ſee a wheel within a wheel in theſe things. I would look on the wheel within my eye. But ſuppoſe another Parliament go on where we leave off, another Parliament (it ſeems) muſt have the thanks for what has been done, and not you; they muſt be the white boys. You have it before you, go on, make your Prince love you; but it ſeems you ſhall not do it, and a ſucceeding Parliament muſt make a fine hand of this work for you. When once *May* comes, it will not be pleaſant ſitting here. Many worthy Gentlemen formerly have loſt their lives by it. Great Revolutions may be in one year—And you are loſt for your Allies, Religion, and all you have. This over-runs all; think on this ſeriouſly, and go forward with heart and hand: God has done it all; let us not throw it down again. From the beſt of Precedents, that of 1660, you are a Parliament; you make not yourſelves a Parliament. Pray go on and read the Lords Bill.

Sir *Thomas Lee.*] I think we are a much better Parliament than that of 1660. I would know where the Writ was then that called the Lords? Parliaments are not the ſame things they were from the beginning; they have had variations. Was not the Prince of *Orange* inveſted with legal Authority by you? And the returns of us hither recorded? If you are not a Parliament, how can you repreſent the People in a parliamentary manner, and then what becomes of your Inſtrument of Government, and what elſe you have done? The Laws againſt Popery, and the Teſt, were made when you had no proſpect of King *James*'s Abdication; and where were the Oaths of Allegiance, *&c.* when theſe Gentlemen went in to the Prince? I believe the People like you ſo well, they will either ſend you again or better. *Clarges* has told you, you cannot raiſe Money, and, at the ſame time,

tells you, the Revenue may be raiſed for preſent uſe. We are told of relief of *Ireland*; and what next muſt be told? You are no Parliament, and you raiſe the King's Revenue. The King may ſearch for his Revenue, and will find it no more legal than now, and no Oaths taken—I ſay that you are and were a Parliament, from the beginning.

Sir *Richard Temple.*] I ſhall offer ſomething not yet touched upon. Has any man ſaid yet we are not a full and free Repreſentative? Formalities are wanting, you are told, but they are ſuch as could not be had; your Elections were as free as ever. No Precedent was ever of a freer. In the Parliament of 1660, there were Qualifications for the Members, and the Lords were not called by Writ, and (a greater thing,) a Commonwealth called it, which was quite another Government. There was a time when Parliaments met without Writs, and King *John*'s was the firſt called by Letters, as now, and nobody having ſhowed any thing againſt the Authority that called you, I will not labour it. In *Henry* IV's time, the ſame Parliament was called again, and they raiſed Money. When the Aſſembly of Lords and Commons met, the Prince ſaid "he would adviſe with them of the beſt manner to call a free Parliament;" and they adviſed him to ſend his Letters. Have not you done the greateſt thing, and now ſtumble at the leſs? How you can juſtify all you have done, if you are not a Parliament called in as good a manner as could be, admits no Anſwer.

Sir *William Williams.*] 'Tis ſtrange we ſhould be here a month, and now queſtion whether we are a Parliament. If we are called by all the power of *England* a Parliament, then certainly we are ſo. Taking it for granted that you could not have ſuch a Writ as is uſual, can you be better called? I am ſorry there ſhould now be ſuch a Debate. If you ſay you are no Parliament, you immediately paſs Judgment againſt yourſelves; you make yourſelves the greateſt fools, and ſomething elſe, and act like children; you have acted

acted without call, and all you have done is void. It will be a ſtrange Queſtion upon your books.

Sir *Henry Capel.*] I would encourage and aſſiſt this King that deſires to live with Parliaments. Leave him not alone ſix Weeks, but let it not be upon your Books that there is any Queſtion upon this matter.

Mr *Pollexfen.*] I can ſay no more than what has been mentioned. That nothing may appear on your Books on this occaſion, put the Queſtion for the Speaker to take the Chair.

Sir *Chriſtopher Muſgrave.*] I think you cannot put the Queſtion for the Chair. If you conſult the Order, 'tis about nothing of the Bill from the Lords, but only "to conſider the King's Speech." That is all I have to ſay at preſent.

Mr *Boſcawen.*] I agree, we can take no notice of the Lords Bill at the Committee; you are only to conſider the King's Speech, and I deſire to-morrow you will go upon it. And when the Speaker is in the Chair, you may call for the Lords Bill.

Sir *Thomas Lee.*] Many without doors diſcourſe ſo much of difference in opinion here in this matter, that I would therefore have the Queſtion on the Books.

Sir *George Treby.*] I am fully ſatisfied that you are a Parliament. For the honour of the Houſe, declare you are a Parliament; though not for the honour of thoſe that oppoſed it, yet for yours. If you conſider the Prince's Advice, in his Letter, he deſcribed a Parliament; whoever denies us to be a Parliament, denies there is either King, or Lords, and Commons. Declare yourſelves one, and you will do yourſelves right, and defeat the deſigns of your Enemies.

Mr *Godolphin.*] I am ſorry to differ from ſeveral in this great Aſſembly. I have heard it ſaid, "If this be not a Parliament originally, we cannot make ourſelves one." I believe thoſe who ſent me hither, have given me no ſuch Authority. I believe we are well choſen, but only for a particular purpoſe; which purpoſe we have accompliſhed. I am afraid, if Gentlemen look into

into the Returns by which they ſit, they will find they have no ſuch form as the old Returns, [*and reads his own Return*] which is thus, "according to the annexed Order and Letter," which is in order to call a free and legal Parliament. If the Gentlemen of the Robe will give it under their hands that this is a Parliament, I will agree; (the Crown, I believe, is worthily placed) but if I am not ſatisfied in my Conſcience and Judgment that this is a Parliament, I muſt be excuſed for my Negative. To have every body well ſatisfied, your beſt way is to faſten the King by a legal Parliament. Before you leave the Chair, put a Queſtion to eſtabliſh the Revenue; and that the King may have power to charge it for preſent Emergency, ſit and prepare Matters for another Parliament.

Sir *George Treby.*] The main thing that ſticks with this Gentleman, *Godolphin*, is the Authority of his Borough, and *Sawyer* had his Authority by laſt night's poſt *. If *Godolphin* will let me read that part of his Return he has not, if it imports he is a Member of Parliament, he is one, though poſſibly, he was not ſo ſenſible of it before. [*He reads the Words in* Engliſh, *tranſlated, in the Return*] Here is the plaineſt Authority to chuſe the Member by the Letter, and all Authority contained in the Return that can be, and I hope this Gentleman will now concur.

Sir *Robert Howard.*] One thing has been omitted; we are all for a Parliament, and yet ſpeak againſt it. All would have us be doing with Money. And if *Godolphin*'s Borough ſent him to treat about Money, and we are not a Parliament, he has the largeſt Commiſſion I ever heard of.

Reſolved, That it is the Opinion of this Committee, That the Lords Spiritual and Temporal, and the Commons, now ſitting at *Weſtminſter*, are a Parliament.

[Agreed to by the Houſe.]

[*February* 21, Omitted.]

* See p. 100

Friday

Friday, February 22.

Reſolved, That an Addreſs be made to the King for a Proclamation to apprehend Mr *Brent*; and for a reward to him that ſhall take him, *&c.*

Sir *Robert Howard.*] According to your Command, I have brought an Account of Moneys delivered to *Burton* and *Graham* by Privy Seal, under the Title of "Proſecution of Law Suits." I have ſet down the day and year. The greateſt Sum is 47,884 *l. &c.* As for Secret Service, there will be a time to give you an Account of that, which may exceed a Million from the year 1679. Since there has been a Noiſe of this Buſineſs, I have received a Letter from Mr *Burton*, who deſires to ſpeak with me in the *Tower*. According to the Pleaſure of the Houſe, I ſhall go, or not go. I have ſhowed the Letter to the Speaker.

Col. *Whitley.*] I know not what reward others have had, but I have paid above 23,000 *l.* becauſe I was told, I voted againſt the King in this Houſe. I was one of the Commiſſioners to diſband the Army: I would not deliver up *Cheſter* Charter: I am a Neighbour and Alderman of that City. Theſe were my Crimes.

Mr *Somers.*] A thing once moved here may be ſoon public, and ſpread abroad. I move therefore that the Honourable Perſon may go to *Burton* preſently.

Ordered, That Sir *Robert Howard* do immediately go and ſpeak with Mr *Burton* in the *Tower*.

Sir *William Williams.*] If you can come at the Bills how the Money was paid upon Account of theſe Diſburſements, then you have your end. You will find them hunting after the blood of Men: You are told of a large Account of "Secret Service;" when that ſhall come in, I would appoint a Committee to enquire into it.

Sir

Sir *Thomas Clarges.*] This, I believe, is in order to Impeachments for the diſcovery of the blood of thoſe who ſuffered; and, for the preſent, to have what light you can, refer it to a Committee.

Col. *Birch.*] If for every great Buſineſs you will refer it to a Committee, you may employ the whole Houſe. I would have it referred to the ſame Committee for Sir *James Smith.*

Mr *Leveſon Gower.*] After King *James* ſent out a Proclamation for a Parliament, there were Inſtructions to recommend Perſons to be choſen, on purpoſe that the People ſhould have Jealouſies of them that they might not be choſen; one *Roberts* was employed by *Brent* to his Corporation to chuſe me on purpoſe to keep me out. I would have this *Roberts* ſent for.

February 23, Omitted *.

Monday, February 25.

In a Grand Committee on the King's Speech.

Sir *Thomas Clarges.*] We have great Obligation to *Holland*; but I believe in ten days time we ſhall have an Account. The Condition of *Holland* is, they are at War with the greateſt Power in the World. I would know the Condition of our Alliance with them; perhaps we ſhall enlarge it. I would not be hoodwinked. I would fully know it, and I hope we ſhall give ſound and good Advice. Though *Holland* has done great things for us, and though *Holland* is firſt in the King's Speech, I believe it an inadvertency. *Ireland* goes neareſt us, and is of the greateſt conſideration; I would know the Condition of *Ireland*; which is not to be done without a clear Repreſentation of it expoſed to us, and I care not how ſoon it may be. I fear to-morrow will be too ſoon, the King being at *Hampton Court.*

* This day the King gave his aſſent to the Bill for preventing all Queſtions and Diſputes concerning the aſſembling and ſitting of this preſent Parliament.

Mr

Mr *Hampden.*] I was not at the firſt part of the Debate, but it ſeems to tend to the King's Speech, which declares his deſire that you would conſider of Alliances abroad, and of *Ireland*, which relates not only to our being, but our well being. 'Tis ſaid by *Clarges*, " he would have an Explanation of the King's Speech" The King is not in town; but what uſe of it, if he were in town? You have his Speech, but if you would have particulars day after day, you will have no uſe of it; but whether will the State of Affairs bear your particular conſideration? I am not moving for Money, but whether you will have a long ſeries of Affairs, now every body expects its Action—Your Friends are afraid, and your Enemies laugh at delay—But if any man moves for Aid, then, by Order, you muſt appoint a day to conſider of it. I wiſh with all my heart the Houſe would conſider of an Aid to the King, and I hope it will be for the Honour of the King, and the Nation, as much as can be, and I move you will conſider it to-morrow.

Sir *Thomas Clarges.*] There is nothing yet before you to anſwer that Motion. I am as forward as any body to aid the King, but we are not proper for that till the State of the Revenue be brought in and expoſed to you, which may do ſufficiently. The Long Robe are of opinion, that the King is inveſted with it, and in poſſeſſion of it, and holds it *Jure Coronæ.* I know in laſt King *James*'s time, the firſt thing ſpoken of in Parliament was Aids, though I know heretofore Aids uſed to be the laſt. I hope we ſhall not be told we want Affections to the King, but I would go by the ſteps our Anceſtors have trod it. I would know what the Revenue is, and then the uſes to put it to. *Ireland* will coſt ſo much, and *Holland* ſo many men and ſhips; when the Charge is before you, we ſhall know our Meaſures, and till 'tis clear to us that there is an uſe of Aid, 'tis not at all proper to conſider it; therefore I move to adjourn this to *Wedneſday.*

able

Mr *Pilkington.*] I move that, without delay, we may ſpeedily fall on conſideration of the King's Speech, ſuitable to what the Parliament is called together for.

Mr *Howe.*] I am well pleaſed we ſhould conſider the relief of *Ireland*, but our affairs at home fright us more than thoſe abroad; the old Army is rather grown worſe than mended. I have a Letter from my Corporation (*Cirenceſter*) that the Soldiers quartered there, will not let the People make Bonfires at proclaiming the King, and they are not checked by their Officers. If you give pay to the Officers, it is not convenient the Soldiers ſhould have pay to cut our throats. Let the Army be in the hands of thoſe the King may truſt, and then give Money.

Sir *William Williams.*] If you will conſider the King's Speech, you have fair room to debate on Aid, and, what belongs to it, the quantity and conſideration of the Revenue. War and Peace we meddle not with; we are only to ſupply it. How far the Revenue was ſettled on the late King, whether all or part veſted in him by Law, is fit to be conſidered. If there be a defect, it may be ſupplied by Act of Parliament; it is not fit to leave theſe things in the dark. When that is done you may conſider of Aids, without going upon it haſtily. But to ſay, that time will not ſtay for it—I am as much for haſte as any body, but to juſtify myſelf to my Country, we cannot come at this matter without knowing whether you will continue the Revenue, or reverſe all the laſt Parliament did. I am for ſupporting the King, both at home and abroad, in what fairly may be done, and all theſe things come naturally out for the King and Country.

Reſolved, That the Houſe will to-morrow Morning reſolve itſelf into a Grand Committee to conſider the King's Speech.

On leave being aſked to bring in a Bill for taking away the Oaths of Allegiance and Supremacy, and to inſert others, *&c.*

Mr *Sacheverell.*] I agree to the Motion for this Bill, to take away the Oaths of Allegiance and Supremacy, and in their ſtead to inſert Oaths to this King and Queen

Queen. And I would have the other Oaths in the Act for regulating Corporations taken away. You have the ſame power to alter thoſe as you have theſe.

Sir *Robert Howard.*] I would not charge this Bill with too many things; it will be long before you have the effect of it. The Univerſity, the Judges, and all other Officers, require ſpeedy diſpatch, and in time that Act of Corporations may be taken away at one blow. That Act had as much intrinſic Iniquity as any Act whatſoever. I would have an Act to take away any obligation to take the Sacrament upon accepting any Office; it is a prophaning the Sacrament. When that Act paſſed here, I remember it was moved by good Church of *England*-men.

Sir *Henry Capell.*] What belongs to the Oaths to the King and Queen, *&c.* I would have in one Act. I think it is well moved about the Corporation Oaths. I am glad to ſee men tender in Oaths; the fewer in the Government the better. The deſign formerly here was to bring the Government into as few hands as they could, and to bring in Popery at the bottom of all. I would have no more Oaths than are neceſſary to ſupport the Government. The Corporation Oath was to eſtabliſh arbitrary Power by Law. The Revenue of Corporations has been ill managed. I move that there may be leave to bring in ſuch a Bill. As for what relates to the Sacrament, every body knows my Education has been for the Church of *England*, and I will live and die with it, but I would have the receiving the Sacrament, to qualify for thoſe Offices, ceaſe. It was preſſed at here by men of great Abilities, and good Churchmen, were againſt it. Such uſe was made of it that People could not ſell Ale without it, and that holy thing was profaned. The Teſt will do very well without it, and I would have it removed.

Sir *Thomas Clarges.*] If the Oath be taken away in the Corporation Act, "that it is not lawful to reſiſt the King," it implies you may reſiſt him. As for the Sacrament, *&c.* "if you take away the whole Act, take away that;" I think that unreaſonable. The public profeſſion

feſſion of the Church of *England* enjoins, " that the Sacrament be received at leaſt once a year." There is no example in the whole World where any are in Office, and not of the public profeſſion of the Religion of that Country. Men cannot be ſurprized, nor will there be any profaning the Sacrament, being obliged to receive it but once a year. I am not for taking away the whole Oath, but for having it explained.

[Leave was given to bring in ſuch a Bill.]

Tueſday, February 26.

Mr *Howe.*] I received a Letter from my Corporation [*Cirenceſter*] laſt night, which acquaints me, with all the Terror that can be expreſſed, that the Soldiers are ſo inſolent there, that, contrary to the intereſt of the King and Queen, they proclaim King *James.* 'Tis time to prevent theſe inſolences—They drank King *William*'s and Queen *Mary*'s Damnation. I believe the Juſtices will not redreſs this—The Clergy are got into Cabals, and they would not appear at the Proclamation. I believe the black Coats, and the red Coats, to be the grievances of the Nation. I would willingly ſatisfy the poor People I repreſent.

In a Grand Committee on the King's Speech.

Mr *Eyre.*] He who ſpoke laſt began about the middle of the King's Speech, ſhort, but *multum in parvo.* That we may be able to come to ſome reſolution, I deſire we may go on, Paragraph by Paragraph.

Lord *Falkland.*] We ought to take that firſt on which all the reſt is founded. That upon ſettlements at home is the foundation of all the reſt. Whatever is done in relation to *Ireland*, and abroad, Money muſt be thought of, and I propoſe that for conſideration.

Sir *Thomas Clarges.*] That is irregular, for it is not referred to you by the Houſe to conſider of, and therefore out of courſe, and Money is a tender matter. As I underſtand, the Speech points directly to the matter of

of Settlement, and the condition of Allies abroad and *Holland*, *(and ſo reads it)* ſo the King here adviſes a good Settlement. And it ſeems to me this good Settlement is to change this Convention into a Parliament; ſo had not the wiſdom of this Houſe turned this Convention into a Parliament, you would have adviſed the King ſpeedily to have called one; and as the King leaves it to your wiſdom to conſider what Acts to propoſe, ſo now 'tis a proper time for a Settlement of your chief errand; therefore I would conſider what foundation that may ſubſiſt upon; they are there but in the nature of Projections. I ſhall not direct, but I think the purport of the King's Speech is to conſider a Settlement moſt for the King's advantage and our good. And therefore I move it.

The Speaker reſumed the Chair, upon occaſion of ſome ſtrangers being in the Gallery, and left it again.

Mr *Garroway*.] We are invited by the King's Speech to make out a Settlement to ſecure ourſelves, *&c.* We heard yeſterday from the Gentlemen of the Long Robe, that the Revenue is not ceaſed by the Demiſe of the King—If proviſion be not made againſt the diſorder of the Soldiers, 'tis not ſafe for us to ſit here—How you will go about that I ſee not, till you know whether the Revenue be really ſettled in the Crown; and then you will know what to truſt to. If there be a doubt upon it, we muſt go ſome other way; but if you declare the Revenue ſettled, it may end all diſcourſes.

Sir *William Williams*.] You are told of the Long Robe's diſcourſes of the Revenue; if any doubt or queſtion be upon it, clear it. The meaſure of the matter before you muſt be the Revenue certain upon the Crown, and you may meaſure by it. I take it from the Acts of the laſt Parliament, (made in great haſte) which are very doubtful to me, and I would be cleared, and come ſpeedily to a reſolution, if it be a good Revenue, for the uſe of the Prince; if not, declare it ſo.

Sir *Thomas Clarges.*] I was with an honourable Perſon diſcourſing of the Revenue, that I was not free to grant it for Life. Learned men are of opinion, that all of the Revenue granted for Life of the late King is to the benefit of this King *Jure Coronæ.* If it be ſo, I ſhall acquieſce in it, that the King may have it with honour for the ſupport of the Government.

Mr *Pulexfen.*] What opinion I was then of, I am now, and am ready to tell my Reaſons. If the Revenue goes not with the Crown, where is it? Where the Crown is gone, the Revenue is gone. It always goes where the public capacity goes: I never knew the contrary. "But the Revenue (it may be ſaid) is granted to the King for Life." I would have the words of that Act read, (*which was read*) I will take it in the ſeveral parts of it: "It does give and grant, *&c.*" and next, "it ſhall be received by the King for Life;" with reference to the former Acts. Now whether this be in the King, *&c.* If I make a Leaſe to the King for Life, as long as he lives amongſt men, 'tis a good Leaſe, if a man enters into Religion, or be attainted of Treaſon—Suppoſe the King granted a Penſion, or charged it, *&c.* for his Life—If civilly dead, this never qualifies the firſt Grant for natural Life. Then next, whither muſt the Revenue go? Shall it go from the ſucceſſion? Then this being granted to ſucceſſion, it follows, the Crown muſt have it, for maintenance of the State and Government of the Kingdom. This is the Reaſon I give my opinion upon.

Sir *William Pulteney.*] Under favour, I think eſtates given to *James* II are expired and determined; he having abdicated the Government, and thereby the Throne become vacant. Whatever relates to King *James* II is determined. I agree, if it be a Leaſe for Life of King *James* II, it is not determined by his Abdication, and that Grant does not determine the Grant over to another, if granted to a perſon for Life, and he be attainted, or *civiliter mortuus.* But our caſe ſtands on another bottom, on a conſtruction by Act of Parliament, which ſays,

ſays, It ſhall be collected and paid, " to the King during his Life.'*i* " 'Tis our ſecurity, as well as ſupport of the Crown, to have the Revenue in our diſpoſal; though I am not againſt granting it, yet I would have it from three years to three years, to ſecure us a Parliament. At leaſt it is a doubtful caſe. But King *James* has abdicated, *&c.* and is no King, and there is an *interregnum*. How we can count this man alive, I know not. I am for ſettling it as you ſhall think fit.

Serjeant *Holt*.] It is not the Queſtion concerning the expedience or convenience, but how this matter ſtands in point of Law? Upon reading the Act, it carries a plain conſtruction expreſsly; for King *James* I had it for Life, and that King *James* is now living, which the Houſe has declared, and that he has abdicated, *&c.* If that had not been, the Throne had not been vacant; and if King *James* be alive, the Revenue continues; and who muſt take it? The King takes it in his political capacity, which is not dead but remains. If King *James* be ſtill alive, I ſee no reaſon that the Revenue is determined. If it be given to King *James*, 'tis a fee ſimple; if to his Heirs and Succeſſors, 'tis otherwiſe; his natural and political capacity, his Heirs and Succeſſors. Suppoſe Tenant for Life be attainted, the King has it for life of the perſon attainted, and his Succeſſor has it. Beſides, not only his political capacity remains, but his truſt for guarding the Seas, and he is a perſon that can anſwer the end of the truſt. I hope you will not ſay the King is dead as to the vacancy of the Throne, and alive as to the Revenue.

Mr *Peyton Ventris* *.] I ſhould be loth the King's Revenue ſhould depend upon doubt. Revenue given to the King is to his Succeſſors, where the Act runs, " The King ſhall be paid it;" and " only to the preſent King devoted;" (*ſee the Inſtrument*) it belongs not to his Succeſſors.

Sir *Robert Sawyer*.] There are three ſorts of Revenue, ſome for Life, and ſome for Succeſſors, *&c.* The only

* Soon after made a Judge.

Queſtion is that for Life, and admitted in his political capacity; but with limitation for his natural Life, 'tis not ſo long as he ſhall continue King, but for his natural Life. 'Tis argued "that any Grant to the King in his political capacity is now determined, that carries a truſt with it." Other Gentlemen ſay "this is but in the nature of an ordinary conveyance." Now who ſhall have this Eſtate? If a man enters into Religion, it does not determine the Eſtate, but the Heir ſhall enter. If it be granted to the King in his political capacity, it goes with the King in preſent. 'Tis moſt plain the truſt is for the Public. I take the Law to be, that thoſe Grants are conſtrued in the common courſe of Law.

Sir *John Guiſe*.] What is given to the King, I conceive, is not as he is King, but for ſupport of the Nation, to take care of it. If ſo given, then 'tis not the King's going away who was to receive it, 'tis not come to be nothing, but is fallen upon the Lords and Commons—And no more is conveyed than granted; therefore I would declare it in the King.

Lord *Falkland*.] Being ſettled on King *James* for Life, you cannot do it for King *William*, during King *James*'s Life. You have declared the Throne vacant, and after it was ſo for ſome days. If the Revenue did ceaſe when the Throne was vacant, I know not how it can be revived but by Act of Parliament. I would not have the Revenue doubtful, but clear it by Act of Parliament.

Sir *George Treby*.] The Long Robe were pointed at even now, and I will deliver my Opinion freely. I think 'tis mighty plain that this Crown is an hereditary Crown. *Richard* II abdicated, and there was a vacancy. When the King dies, *nolens volens*, the Crown deſcends to his Succeſſor; but when he abdicates the Crown, the diſpoſing of it comes to the Lords and Commons, and muſt be ſo accepted by the King. Lord *Falkland* is above the ſtudy of the Law, but if he was converſant, he would know that if a Revenue is granted to *John-a-Styles* for Life, though the King dies, if *John-a-*

Styles

Styles is alive, that Leaſe is not void. I have ſpoken of this variouſly, and was not determined in my thoughts till this morning, but now am of opinion that it reſts in the Life of King *James* II. From the opinion of the laſt Parliament, and this too, the Revenue is of Inheritance of years and life. That upon which the Queſtion ariſes is that of the Cuſtoms, and half the Exciſe, given to the King, and limited to his Life, in his corporeal capacity. What is meant by the King's Life? I think, not his Reign, for it might have been as well expreſſed his Reign, and as well now; but I think it is intended, during his natural Life. If all the Parliament were aſked, when that Grant paſſed, if they intended, that, as long as King *James* ſhould live, it ſhould return to the People,—they would ſay no. In thoſe three ſorts of Revenue 'tis expreſſed in the ſame words as this, for Life—His Majeſty for Life. Is that for eight years determined? No. Which implies that 'twill go to his Succeſſor, notwithſtanding his Demiſe or Abdication. 'Tis as reaſonable to conſtrue this ſo too, and expound one part by another. Had it not been for this unfortunate change for *James* II, (which I ſpeak of with melancholy thoughts) you yourſelves in effect have declared your mind as to this Revenue. When you deſired the Prince of *Orange* to take upon him the Adminiſtration of the Government, you remember that Gentleman who ſaid, "we were no Parliament," ſaid, "we wanted only a Declaration of it, but had not formality"—When the Prince of *Orange* was happily arrived, and the Lords and Commons were ſummoned, they adviſed the Prince to take the Adminiſtration of Affairs upon him, Civil and Military, and the public Revenue. He put out a Declaration of the great diſorder in collecting the Cuſtoms, and appointed Officers to receive and collect the ſame till the 22d of *January*, the time the Convention was to meet. Then you addreſſed him with Thanks for accepting the Government, and deſired him to continue the receiving the Revenue, *&c.* which could have no other interpretation than what Revenue was then

in being; and it is ſtrange it ſhould not be continued, and nothing of conſent in Parliament. Till King, Lords, and Commons are actually joined to the King, 'tis no Parliament—If ſo, you declare *William* has done what *James* II did, and what you thought a Grievance. No man but concludes the uncertainty of the Revenue to the King for another man's Life; and I need not labour the matter.

Sir *Thomas Clarges.*] I do not labour this, but I offer only, that, if there be any doubt, you will put it paſt doubt.

Mr *Howe.*] One would have the Revenue during King *James*'s life, and another during King *William*'s; but I would make no ſuch Leaſes, but from time to time by Parliament. I hope *Weſtminſter-Hall* ſhall never decide our Purſes, what we are to give. I think King *James* did abdicate the Revenue; nay, that he did forfeit it to ſomebody's hands, and if we could give it, *nemo dat quod non habet.* That the Crown is forfeited, and that the Lords and Commons offered it as a Preſent to King *William*, and that they have a right to offer this Revenue as a Preſent to him, is my opinion.

Mr *Godolphin.*] I am willing to divide with both opinions. I believe, that Parliament that gave this Revenue, intended not to give it to King *William*; for there were no thoughts then of King *James*'s Abdication. If any doubt be in the Houſe, it is in your power to put it out of doubt.

Sir *Jonathan Jennings.*] 'Tis highly neceſſary to come to an end of this Debate. There have been many caſes put, and I hope ſome come up to our caſe. We are told, "ſome of the Revenue is for years, and ſome for life, and is in the preſent King as it was in King *James.*" If a Patentee come and ſhow you a Grant for years, or life, before the Abdication, declared even before the King left the Kingdom, ſhall not that ſtand good to the Patentee? And then, where ſhall be the ſupport of the Government? I hope this will

will be ſuddenly anſwered, as a weak ſuggeſtion, and that you will go on.

Sir *William Williams.*] What is given, of this nature, is the gift of the Commons only, and the Crown is to take it as it is given. The People are the Donors, the King is the Donee—All agree, it is in the Crown as a Truſt. Be it either way, I propoſe "that you will give it the King for three years."

Sir *Richard Temple.*] You have had a long Debate, and 'tis hard to know what to adviſe you in this caſe. You have heard the Gentlemen of the Long Robe, who tell you "the Revenue is ſtill in being, and applicable to King *William*; but you muſt ſtill declare it in King *William* by Act of Parliament;" meaning, ſhould you do it by Vote alone, it will not be ſo ſatisfactory. The reaſons offered do not take away all doubt. 'Tis ſaid, "the Revenue is granted to the late King, but with limitations, for Life:" I would know, whether in his natural capacity, or political? His political capacity ceaſes, and you have impowered the Prince of *Orange* to reign; but where was it during the Vacancy, when one of the capacities is gone? I would have it explained. This being the caſe, King *William* will hold it upon mighty uncertainties, if during the Life of King *James:* Therefore I would have a Bill brought in, to declare the Revenue as you ſhall think fit.

Col. *Birch.*] 'Tis very convenient that this matter be cleared. I perceive this is a doubt amongſt learned Gentlemen. I cannot think that this being given for King *James*'s Life, is intended longer than his Reign, when he does not protect and defend you. Could it be intended, if you give it King *William* for Life, if he cannot reign over us? No doubt it is a Revenue which fell into the ſame power and authority that the Government fell into, which was Lords and Commons. Though King *William* be ſufficiently indemnified by Act of Parliament, *&c.* and though you did think fit to give the Kingſhip out of yourſelvss, you will bear me wit-

neſs, I was one of the forwardeſt to part with it; and ſo I would do with the Revenue. But our greateſt miſery was, our giving it to King *James* for Life, and not from three years to three years, and ſo you might have often kiſſed his hands here. I do not believe that King *William* would have it longer: Perhaps perſons would make it their intereſt to keep us aſunder, but ſuch a Grant will keep us together.

Sir *George Treby*.] This Gentleman has commended us of the Long Robe for our learning. But as for his reaſon, "that he has had Kingſhip in him, and knows King *William*'s mind;" he is too hard a match for me to deal with him. He ſays, "the Revenue was to King *James* no longer than he ſhould protect us, but given to King *William* becauſe he does protect us." But what if he ſubvert?—We ſhould then give to one to redeem us.

Col. *Birch*.] If King *William* ſhould deſtroy the Laws, Foundations, and Liberties, I doubt not but you will do with him as you did with King *James*. As to my knowing King *William*'s mind, if it is his mind to have ſome for Life, then, by chance, it is beyond the intention of this Houſe.

Mr *Finch*.] The Revenue, without all manner of objection, is better for the Nation than diſputable, and that there ſhould be a Revenue neceſſary to ſupport the Crown and you. The Law allows no diſtinction of capacities in the King, as his political and natural capacity. 'Tis an old miſtake, as old as *Edward* II's time; and you know what uſe the *Spencers* made of it: They ought not to be ſeparated by Law. 'Tis ſaid, in the Act, "During the King's Life, which God long preſerve;" as if to preſerve his Reign, and not his Life. 'Tis ſaid, "You have deſired the King to collect the Revenue, till it ſhall be farther ſettled." You will find, all along, the Revenue collected in the name of King *James*, collected and adminiſtered in his name: I think that no argument, to continue longer that political capacity. To give the King, for the

ſafety

ſafety and protection of the Kingdom, in his political capacity, then you give to all the Succeſſion in political capacity. 'Tis moſt proper to give ſuch a Revenue; and I move, to give the King a Revenue to ſupport the Crown.

Mr *Somers.*] This caſe of the Revenue is of great conſequence, and certainly 'tis manifeſtly a doubt. But I cannot agree that the natural and political capacity, *&c.* are not diſtinguiſhed; becauſe our Laws do diſtinguiſh them. But I think an Act of Parliament much expounds them, when a Revenue is granted for the King's Life. For increaſing the King's Revenue, when you limit it, 'tis for Life, and can be intended no longer than in the Preamble of the Act, which intends it for his Reign; therefore ſettle it in the moſt ſolemn and perfect way. With a common perſon it ends with Life; but a Demiſe and Abdication of the Crown do extinguiſh his Title to it. Settle it as you pleaſe.

Sir *Robert Howard.*] As it has been moved by the learned perſon, let us go upon certainty. You have ſaid, that King *James* has abdicated the Government, and you have diſpoſed of the Crown; I cannot apprehend how he abdicated the Crown, and not the Revenue. I deal freely with you; Tallies are ſtruck in King *James*'s name, but I have prepared an inſtrument to the contrary. If you are not in a condition to diſpoſe of the Revenue, how came it into your hands to diſpoſe of the Crown? I think both are inſeparable. Suppoſe he that has the Crown retire into a Monaſtery, and is incapable to govern, and a Revenue is given him for Life, is his not the caſe of a private man? He is no longer a King. 'Tis my opinion, that the Revenue of the Crown is from the People, and the Nation; as you have diſpoſed of the one, you may diſpoſe of the other; and ſo you may proceed to ſhow how it ſhall be diſpoſed of by Act of Parliament.

Sir

Sir *Chriſtopher Muſgrave.*] If this Queſtion be carried in the Negative, where is your Revenue, and how ſhall the Kingdom ſubſiſt? People are not apt to part with Money, and your Vote will not make Law, and it is no more Law by your Vote; it muſt be by Act of Parliament; and the greateſt ſecurity to the Crown is, not to put that Queſtion, but to bring in a Bill.

Sir *Thomas Lee.*] If we bring in a Bill, it muſt be a Bill to grant a Revenue; and it is not to begin here, but from the whole Houſe. 'Tis moſt proper and natural to put the Queſtion, Whether the Revenue be in the King; and then the Houſe to go into a Grand Committee. I have heard the Gentlemen of the Long Robe with great attention; but one thing ſticks with me: There is a great difference betwixt what was anciently, and now; formerly the Crown ſubſiſted by Lands of its own, but now by what ariſes out of the Subject.

Mr *Pollexfen.*] There are no rules of Law to diſtinguiſh one ſort of inheritance of the Crown, and another King *James* had the Right in him, and his Heirs and Succeſſors had it, and no diſtinction in Law of his political and natural capacity. If an Eſtate be granted for Life to King *James*, there is no diſtinction and limitation of Eſtates betwixt Grants to the King and a private inheritance.

Sir *Henry Capel.*] The rule we go by here is Juſtice and Truth. I would know if we have done Juſtice to fill the Throne with King *William* and Queen *Mary?* Is it a prudent thing for us to ſay, that King *James* II is no King, and yet *James* II has a Revenue? I remember, on Debates on the Excluſion-Bill, Gentlemen that argued againſt it, alleged "that there was no danger in the Duke of *York*'s coming to the Crown; for, when the King dies, the Revenue ceaſes; and the Parliament will take care of Religion, before they grant it." We have ſeen that has been otherwiſe. When the King has abdicated the Government, it is inconſiſtent

ſiſtent with reaſon to think otherwiſe. I think this matter relates to Money, therefore 'tis proper to be in a Committee of the whole Houſe.

Sir *Robert Howard.*] The Queſtion may have inconveniences; therefore reſolve the Houſe into a Grand Committee.

[*Reſolved*, That this Houſe will, to-morrow morning, reſolve itſelf into a Grand Committee, to take into conſideration the King's Revenue.]

Wedneſday, February 27.

In a Grand Committee on the King's Revenue.

Mr *Hampden* in the Chair.

Sir *Thomas Clarges.*] I do not well comprehend *Cotton* (Sir *Robert*, of *Cambridgeſhire*) who deſires, "that the Revenue may be a Million"—If two years, two Millions; and his deſire anſwered—I would do my duty to my Country, as well as to the King, and expect from the King what I do not from others. I would have the Monarch and the People in mutual confidence, or elſe there is no ſafety to either. I think we ought to be cautious of the Revenue, which is the life of the Government, and conſider the two laſt Reigns. It ſeems, by the King's Declaration, we are out of danger of falling into the misfortunes of the two laſt Governments. If you give this Revenue for three years, you will be ſecure of a Parliament. I doubt not the people of *England*, when they meet here, and have good execution of their Laws, and are in ſecurity and ſafety; 'tis an unreaſonable ſuppoſition, that the people will not aid him according to his occaſions. And I move, "that the Revenue may be ſettled for three years."

Sir *Robert Sawyer.*] I believe Sir *Robert Howard* can give you an account of the yearly value of the Revenue.

Sir *Thomas Clarges.*] When you have overcome this, I would have it determined, whether the temporary part

part of the Exciſe and the Cuſtoms are in being, before you proceed to any farther matters.

Mr *Love.*] I find there will be occaſion of diſcourſes, what the Revenue is? Therefore I move, that *Howard* may give you the Revenue. When all is before you, you may conſent to ſuch a Revenue as may make the King great to all the World.

Sir *John Lowther.*] I ſhall be ſorry, in the Motion I ſhall make, to be an inſtrument to loſe the good correſpondence betwixt the King and you. We are not ſecure from danger; and I believe you will not leſſen your reputation abroad, by having an entire confidence in him, and being perfectly united in intereſt and affection. The States of *Holland* are now engaged againſt the mighty power of *France*; and, I believe, you would not have the reputation of the King leſſened in that Court. The King of *France* has 200,000 men, has equipped many ſhips, is preparing to aſſiſt King *James* in *Ireland*, and has great correſpondence in *Scotland*. The Duke of *Gordon* is in poſſeſſion of *Edinburgh* Caſtle, and it is thought will make King *James* a paſſage into *Scotland* by *Ireland*. The *French* King is upon his march with 80,000 men into *Flanders*, with deſign upon *Holland*; I know not what can reſiſt him, unleſs that little State, by the bleſſing of God, can do it. This is the ſtate of affairs abroad: The Army is diſcontented at home. All this conſidered, I would have Gentlemen conſider, whether it is not neceſſary that there ſhould be confidence in the King. I doubt not but the King will call Parliaments often. If I had thought him a man of that temper as not to call Parliaments, I ſhould never have ventured my life and fortune for him; and if he would not have continued to ſupport the Proteſtant Religion. If theſe conſiderations move with you, I ſhall be glad of it; if not, I ſhall comply with any other Motion.

Sir *Edward Seymour.*] You have had a repreſentation of the difficulties you are under. Arguments are not much altered from former times to make us unanimous in

in aſſiſting the King; but now they ſerve for another turn. What you ſettle on the Crown, I would have ſo well done as to ſupport the Crown, and not carry it to exceſs. We may date our miſery from our bounty here. If King *Charles* II had not had that bounty from you, he had never attempted what he had done. In his time, it was only, aſk and have, carried on to that attempt as to hazard our ruin. Now we have a Monarch, we muſt ſupport him. I was ſorry to hear what I did yeſterday (from *Birch*) as if the King was like a ſingle perſon, to call him to account when we will, and that we ſhould ſo ſoon change our reſpect to him. If we ſettle the Revenue, I would enquire into it; if you know not the value of what is given, you cannot do it effectually. There is great need of Money, and when you know the particulars of the Revenue, you may better conſider of it, and not go away with names, but do things. Before you make any ſettled reſolutions, enquire into it; and, if poſſible, that the whole Revenue granted may be at one time certain, and not a part temporary. To enquire into the Revenue is your beſt method.

Sir *Francis Drake.*] We are told of former exceſs of giving Money: I was never for it, becauſe it was againſt the intereſt of the Nation, to ſtab our Religion, and Laws. I thank God, we are delivered from theſe men; now we are under a Prince who has deſerved well of the Nation in delivering us, and I would give him the beſt acknowlegement we can, but not to prejudice the People. The ſame reaſons for not giving formerly make me for it now, for our Prince to ſupport the Honour of the Nation. 'Tis propoſed, "that you calculate what is neceſſary to ſupport the honour and dignity of the Crown." I believe you will have an account given in a ſhort time. I would appoint tomorrow for it.

Sir *Robert Howard.*] I wiſh I could give the Houſe ſatisfaction concerning the Revenue now—What was ſaid is very true, that heat of Loyalty was carried on formerly

formerly to exceſs, but there is not that argument to carry us on now. If the Religion of the one and the other were the ſame, then be careful of exceſs; but coldneſs now will have more fatal effects. The Queſtion now is, Whether you will grant the Revenue for Life, or Years? I have heard the argument for granting it only for three years, but to ſecure Parliaments. I will lay little argument upon the ſtreſs of a Proteſtant King, and no danger of Religion. I never will ſpeak againſt a Triennial Parliament. When a Popiſh King has received ſuch teſtimony of kindneſs from the Parliament as to have the Revenue for Life, if a Prince, come in to ſave your Religion and Laws, ſhould not have the ſame confidence, it will be thought a great coldneſs. It will be a matter of great rejoicing beyond ſea, if we come up with more chearfulneſs to that King who would have impoſed upon you what this King has delivered you from. It may give encouragement to your enemies—Here are great diſlikes, of a ſad and cloudy nature; this may extend to cloud mens minds, and extend to Elections of Parliament-men, for the future. Perhaps arguments of ſo ſhort a term as three years may give encouragement to your enemies, when 'tis ſaid that all muſt depend on the condition of the Revenue: You yourſelves, when you ſhall ſee the condition of the Revenue, may more eaſily ſettle your thoughts, what you will do for three years, or longer.

Mr *Eyre.*] I move, that the debts of the Crown may be brought in, with the Charges upon the Revenue.

Sir *Robert Clayton.*] I am afraid that will not do your buſineſs. I apprehend that there may be legal Charges on the Revenue, as the Bankers Debt, and other legal Charges; and if the Courts of Juſtice do well, they will recover it on the King.

Mr *Garroway.*] The Bankers Debt is named: I believe it is upon that part of the Exciſe which legally ought not to be charged: There are Sollicitors at the door in this buſineſs already.

Sir

Sir *Thomas Clarges.*] Since the Bankers Debt is named, when you come to look into the Revenue, you will ſee whether the Bankers Debt be legally due, and which ought to be paid. The caſe will be, whether the Crown has power to ſell all the Revenue, not ſettled by Parliament—You muſt pay for what you buy, and yet come to the Lord Treaſurer for it. I was of that Jury, when 80,000 *l.* a year was bought valuably, and the Officers of the Exchequer robbed them of it.

Sir *Henry Capel.*] For fear of the Bankers, I would not neglect the ſecurity of the Kingdom: But if it be charged upon a branch of the Revenue, which it ought not to be, it is no Debt.

Sir *Robert Howard.*] I had the Honour to be one of the Members appointed to examine *Coleman*, who ſaid, "that a conſiderable ſum was to be given to ſecure the Bankers Debt;" and if it was thought good then, what need of ſecurity?

Sir *Thomas Lee.*] I know not how this Debate of the Bankers comes regularly before you. I am not verſed in the rules of the Exchequer, and leſs in Law; but I had it from Lord *Clifford*, "that, if the Bankers lent the King 100 *l.* it was at 10 *per Cent.*"——They could not advance Money—Tickets coſt 2*s.* 6*d.* a-piece, and ſo, upon reckonings, they made the King pay 50 *per Cent.*

Mr *Boſcawen.*] The Bankers agreed with *Coleman* for ſuch a ſum of money. A great deal of money was lent to King *Charles* II, on credit, in Lord *Clifford*'s time; and the ſhutting up the Exchequer was looked upon as the greateſt invaſion of Property. It was to make War with *Holland*; and, without that illegal way, they could never have got Money to make War. I would have it brought in; if legal, it may be thought of; if illegal, made void.

Mr *Pollexfen.*] I am of the mind of the Gentleman, to give the King that which may not deceive him, and in him, ourſelves. I would have the whole Debt and Charge brought in.

Mr

Mr *Sacheverell.*] I have known this of the Bankers formerly. If you look upon it as a Debt from the beginning, and examine the accounts, it may probably laſt you till *Midſummer*. There was great ſollicitation in the Houſe then, and ſome ſay foul—It was urged then, "if you can prove a juſt Debt, will you come to account of the Money you lent; and will you be content to ſtand by it, and fall by that account?" Then ſaid I, "What reaſon have you to expect more privilege than all the other ſubjects of *England*, and there is no reaſon to look into it." Was it examined, it would be found, that the King was ſo far from being debtor to them, that they would be debtors to him.

Mr *Garroway.*] When the King, that now is, was here as Prince of *Orange*, I walked with him; and, diſcourſing of the Bankers, I told him, they might have had all their Debt paid, would they have diſcounted at 7 *per Cent.*

The reſt of this day's Debate was ſpent in ſeveral Propoſals for raiſing Money. [And it was agreed, That 420,000 *l.* ſhould be given his Majeſty by a monthly Aſſeſſment; which was the next day agreed to by the Houſe.] [*February* 28 omitted.]

Friday, March 1.

Mr Comptroller *Wharton.*] I ſtand not up to hinder or interrupt the Debate, but, as the propereſt time, to acquaint you, that I am to deliver a Meſſage from his Majeſty. The Paper in my hand will expreſs the matter better than I am able to do it.

[*The Letter from the King imported*, "To deſire the Houſe to regulate the abuſes in collecting the Hearth-Money; or, if it be a Grievance to the Subjects, his Majeſty will conſent to take it away, as the Houſe ſhall adviſe."]

—I cannot but ſay, this is the greateſt honour the King can do me, to make me a Meſſenger of this. I have ſeen Meſſages for Money, but it is the firſt I ever heard of of this kind, for the King to part with a Revenue. I am to acquaint you farther, a little more fully than in this Paper, *viz.* that the King was the firſt that moved this

this in Council. He did it for the eaſe of the People, and would always do ſo: He, and only he, is to have the honour of it.

Sir *Robert Howard.*] It was very late, when no body expected any ſuch thing, that the King made this Motion in Council: The King ſaid, "It was much in his thoughts:" I could wiſh the Houſe had heard his diſcourſe of all this buſineſs; and in all his diſcourſe from *Exeter* hither, he expreſſed his inclination to do good to the People.

Sir *Thomas Clarges.*] I move, that both Houſes would join in an Addreſs to the King, with their humble ſenſe and Thanks; and I would have it the Declaration of the whole Nation.

Sir *Thomas Littleton.*] We cannot but have a great ſenſe of this gracious condeſcenſion of his Majeſty; perhaps the moſt grateful and the greateſt grace that has been done by any King formerly. And as this is a great favour from his Majeſty, ſo I hope we ſhall take care, in due time, that his Majeſty may be no loſer.

Col. *Birch.*] I ſtand up to ſecond not only our hearty Thanks, with the concurrence of the Lords, but this being ſuch a Revenue that we were in no hopes ever to have an end of it, I would alſo ſignify this extraordinary favour to the Nation, and give the King an extraordinary compenſation.

Sir *Thomas Lee.*] I move to have an addition to the Thanks, *&c.* "That the King need not doubt of the affections of his People, to ſupply his occaſions from time to time."

Mr *Hampden.*] Firſt reſolve on Thanks, *&c.* and then you may add as has been moved; but not to join the Lords in any thing relating to aid the King by way of compenſation. You may appoint a Committee to draw up the Addreſs.

[A Committee was appointed accordingly.]

Mr *Hampden.*] I am commanded by the King to acquaint the Houſe, that ſeveral perſons about the Town,

in Cabals, conſpire againſt the Government, for the intereſt of King *James:* Some the King has cauſed to be apprehended and ſecured, and thinks he may ſee cauſe to do ſo by others. If theſe ſhould be ſet at liberty, 'tis apprehended we ſhall be wanting to our own ſafety, the Government, and People. The King is not willing to do any thing but what he may be warranted by Law; therefore, if theſe perſons deliver themſelves by *Habeas Corpus*, there may ariſe a difficulty. Exceſſive Bail you have complained of. If men hope to carry their great deſign on, they will not be unwilling to forfeit their Bail. The King aſks your Advice, and hopes you will give it, as likewiſe the Lords. I forgot to tell you, ſome are committed on ſuſpicion of Treaſon only.

Mr *Garroway.*] This Meſſage requires your Advice. I conceive, the King is under ſome preſſure by the Law; he does conſider your ſafety, without violating the Law; our buſineſs is to take off all hardſhips from the King, and to take the burden upon ourſelves. It is not unknown, at leaſt ſome are ſuſpected to be tampering, and the King has found out ſome, and by this he may proceed to the remainder. In this, we muſt conſult the learned in the Law, to offer their opinions upon the preſent ſenſe of things, and to beſeech the King that no preſent proceedings may be againſt theſe men, but to take ſome little time to conſider of it.

Sir *Thomas Littleton.*] 'Tis of great conſequence, what Advice the Lords and Commons ſhall give in this. In the mean time, I deſire the King may make no proceeding againſt theſe men; and I would add Thanks to the King for aſking your Advice; a thing not very uſual in this place!

Col. *Birch.*] I ſecond that Motion. Theſe are new things; and the King having thus freely delivered us from that badge of ſlavery, the Chimney-Money, (by which a Freeholder was not left in *England*) I ſecond the Motion, that ſuch Thanks, and ſpecial Thanks, may be given him on this occaſion.

Mr

Mr *Boſcawen.*] We are not only to conſider theſe perſons ſecured at preſent, but ſuch as may be upon the ſame occaſion. 'Tis not unknown, that many Soldiers diſbanded, or who have diſbanded themſelves, have Arms in their hands. I have Letters, that the Soldiers in *Cornwall* are as bad as the reſt; and when the Magiſtrates rejoiced at the happy change, the Soldiers killed a man. I would conſider ſome regulation or diſcipline of the Soldiers, and not to have them proceeded againſt in *Weſtminſter-Hall*, and to make ſome temporary proviſion for the ſafety of the Government. There is a Kingdom near us, where theſe Soldiers may go without ſhips *(Scotland)*. I would take ſome effectual courſe. I have laid the thing before you.

* * * * *.] The matter before you requires no long time of conſideration; the King has ſent for your Advice, and he knows well enough how the Law ſtands, which ought to be inviolable, and I am always for keeping it. Therefore I would make immediate application to the King, to take up ſuch perſons as he ſhall ſuſpect to be obnoxious; likewiſe I would have a ſhort Bill, for two or three months, to enable the King to commit ſuch perſons as he ſhall have cauſe to ſuſpect, without the benefit of *Habeas Corpus*.

Sir *Thomas Clarges.*] A thing of ſo extraordinary a nature as this, requires time to conſider of it. I cannot conſent to this Bill. 'Tis ſaid, "theſe men may eſcape when bailed;" muſt we therefore intrench upon the *Habeas Corpus* Act? I would rather adviſe, that great ſecurity may be taken of them to appear, than that that Bill ſhould be intrenched upon; a thing ſo ſacred! The other Motion, about the diſorders of the Soldiers, ſeems to touch upon Martial Law. If they do any violences, the Law is ſufficient already; but if Martial Law be neceſſary, let it be by way of tryal by Juries. But I cannot abide Martial Law.

Sir *Henry Capel.*] This matter is for the Houſe, and not Advice proper for the Privy Council. 'Tis the duty of every perſon about the King, to adviſe him to

take the opinion of this Houſe. Pray let there be no diſcouragement in the thing, the King aſking your Advice ſo graciouſly. This thing is not ſlight; 'tis weighty, and a great deal is at the bottom. "That the King would continue his care, and to thank the King for it," was *Clarges*'s Motion, which I ſecond.

Sir *Robert Sawyer*.] I take the Act of *Habeas Corpus* to be the general ſecurity of all ſubjects. 'Tis not to be underſtood, that that Law will be ſhaken when you are gone, but to continue no longer than for the perſons already taken, and at preſent in purſuit.

Sir *Richard Temple*.] 'Tis happy we have ſuch a King, that is tender of our Laws and Liberties, and that will adviſe with his Great Council. I fear, thoſe things offered you tend to more violation of that Law than a Bill. The taking extraordinary Bail was as much a violation of your Liberties as any, in the late King's time; and there is no way but to provide a ſhort Law for it. If you adviſe the King to detain theſe perſons, and no more, what needed the King to have had reſort to you in this caſe? You can adviſe nothing elſe, but what will ſhake the *Habeas Corpus* Act. If it be required, in three days time they are to have their *Habeas Corpus*. Since the King has had recourſe to us for Advice, let us give him none againſt Law. You may adviſe the King, that there be no proceedings, to deliver them, till you provide a Law; and that, in the mean time, he may go on to apprehend them.

Mr *Hampden*.] Some of the perſons apprehended are ſent to the *Tower*; and the King does not think that a *Habeas Corpus* does not lie there, and therefore ſends you this Meſſage. Lord *Arran* (who is committed) had not been taken, but that he fled in the diſguiſe of a footman's habit, and was ſtopped by a Centry without Order. I am of opinion, before you ſend up your Addreſs, to have a Vote for a Bill for the King to commit, without benefit of *Habeas Corpus*, ree months.

Mr

Mr *Sacheverell.*] The Meſſage ſent you is too weighty to determine on a ſudden; but thus far you may go, to adviſe him to ſecure thoſe he ſuſpects. I cannot conſent to go any farther, nor conſent, on every great occaſion, to diſpenſe with that Act, and at laſt to take it quite away; but to ſecure thoſe whom the King does ſuſpect, or has cauſe to ſuſpect at preſent.

Sir *William Pulteney.*] Suppoſe perſons come to a Judge for a *Habeas Corpus*, what ſhall the Judge do in this caſe? To ſay, "that the Houſe of Commons have adviſed the King otherwiſe," ſhall that ſuperſede the Judge's proceedings? So that neceſſarily you muſt have recourſe to the Legiſlative Power, and leave the matter ſtronger than before.

Mr *Finch.*] This is a matter of great conſequence: 'Tis of abſolute neceſſity, that thoſe perſons be ſecured for tampering with the Government, and of as abſolute neceſſity, that the Law be ſecured too. There is no danger that perſons ſhould be delivered by *Habeas Corpus*; for as there are no Judges yet appointed, they can have no Writs, and ſo no neceſſity of bailing them immediately. If they cannot be immediately delivered, and may be ſecured, the King can do that without your Advice. But the Queſtion is, What to do with the perſons attached, ſeeing they cannot immediately be delivered? I think it fit to thank the King for his Meſſage, and to adjourn the Debate.

Sir *Chriſtopher Muſgrave.*] I ſpeak to the Queſtion, for the Committee to draw up an Addreſs of Thanks to his Majeſty, *&c.* I find Gentlemen of various opinions. I am for Thanks, and would have that Queſtion ſingle, elſe I know not how to give my Vote: I would have Thanks to the King, for his gracious condeſcenſion in aſking our Advice.

The Queſtion paſſed accordingly.

Lord *Falkland.*] This Meſſage from the King is of great conſequence; and I am not for giving ſingle Advice, but to give as much as we can. There is great

cauſe to apprehend danger from caballing, and the old Army is diſcontented. Detaining theſe already apprehended, or that he ſhall have cauſe to ſuſpect, I think we may adviſe without encroachment upon the Law.

Sir *Robert Clayton.*] When you have taken theſe People, how will you hold them in priſon? Had it not been for the *Habeas Corpus* Act, there had not been many of us here now; we had been dead and rotten in Priſon. I would have the Debate deferred. When the legiſlative power and the executive are far aſunder, it might be difficult, but they are together. I would have this a temporary Bill for a ſhort time, and not to be drawn into example.

Sir *Thomas Clarges.*] I am for that Motion for the King to apprehend ſuſpected perſons: Till you give your Advice, the King may do it without you. I would have ſuch Advice given, as may conſiſt with the gravity of this Houſe. As for to-morrow, though the Teſts, *&c.* are to be taken; there is no danger in taking them after to-morrow: I would have that underſtood that you have no reſtraint upon you that may put it off. As to this ſuſpending the *Habeas Corpus* Bill, at preſent I am under great reſtraints in Judgment, therefore I would have it duly debated, and, it may be, I ſhall be for a temporary Act.

Sir *John Lowther.*] I think you are told by the learned perſons "that it is no Queſtion, but the King may ſecure theſe ſuſpected perſons, and 'tis in his power, and ſuppoſed to be his Duty, and the proper Adminiſtration of the Crown." I am not againſt adjourning the Debate till to-morrow, but I would not increaſe Jealouſies in People, that you will not take the Teſts. Thoſe who adviſed the King to deſire a temporary Act ſeem rather to confirm the *Habeas Corpus* Act, than to weaken it. When you exerciſe the legiſlative Authority in this Emergency, it is no invading your Law, but very neceſſary at preſent.

Mr *Hampden.*] The difficulty the King is in, is not to apprehend theſe Perſons, but what to do with them.

Your

Your Advice is deſired, and what he ſhould do in this difficulty. I think the King may legally commit and do no man wrong. He aſks your Advice, and I think 'tis no encroachment on the *Habeas Corpus* Act. No man took more pains in it, nor values it more than I do. Theſe men will go on conſpiring, and Gentlemen ſay, to-morrow is appointed for taking the Oaths and Teſts. Thoſe Gentlemen that refuſe taking the Oaths and Teſts, will ſit very uneaſily here. But if you gravely deliberate, and at the ſame time delay ſwearing Allegiance to the King, as though you intend no haſte, conſider what will be ſaid abroad. Therefore I move for a temporary Act to diſpenſe with the *Habeas Corpus*.

Sir *Thomas Clarges*.] I ſtand up to vindicate myſelf: I am as free as any body to take theſe Oaths. I deſire to juſtify myſelf.

Ordered, That a Committee be appointed to draw up a temporary Bill, to enable his Majeſty to ſecure and keep in Cuſtody all ſuch as are committed for conſpiring againſt the Government, and that no Perſon committed for Treaſon, or Suſpicion of Treaſon, be bailed by any Judge upon a *Habeas Corpus*, without conſent of the Privy Council, till the firſt day of the next Term.

Sir *Chriſtopher Muſgrave*.] The Motion made laſt was of an unuſual nature. To order Gentlemen to draw up a Bill, and immediately to bring it in! I think this is of an extraordinary nature.

A Meſſage from the Lords, That they have made the like Vote with this Houſe to ſtand by and aſſiſt his Majeſty with their Lives and Fortunes.

Mr *Garroway*.] For the touching Money matters, this is no charge upon the Subject, therefore we may join with the Lords in this, for every man is bound to it by his Allegiance.

Mr *Hampden*.] As to Conference with the Lords about this Vote, that is at an end, (the Commons having made the ſame Vote,) therefore I would think of ſome way to preſent it yourſelves as your own Vote.

Mr *Garroway.*] I have known, in ſuch a caſe, that both Speakers have gone up to the King, being a Meſſage of the ſame thing.

The Speaker.] I remember not the ſame thing, or that both Houſes have gone up with each of their Votes.

Sir *Chriſtopher Muſgrave.*] I would inſpect the Lords Journal, *&c.* [Which was ordered.]

The Bill for ſuſpending the *Habeas Corpus* Act was read the firſt, and immediately after, the ſecond, time, and ordered to be committed.

[*March* 2 was employed in taking the Oaths.]

Monday, March 4.

On the Bill for ſuſpending the *Habeas Corpus* Act.

Sir *Edward Seymour.*] I apprehend, nothing but the laſt neceſſity will cauſe you to part with the *Habeas Corpus* Act; the ſame example for others may be for the future to do it. In what I ſay, I move for Privilege of Parliament; I would not have that ſuſpicion extend to Members of Parliament. I think it reaſonable, when you provide for the ſecurity of the Public to provide for your own. I would have no Members taken upon ſuſpicion of practiſing againſt the Government; but when they ſhall be firſt adjudged criminal here.

Sir *William Williams.*] Conſider the quick flight this Bill has made here; 'twas voted, brought in, and committed all in one day. As you have overruled your own Order, ſo I muſt not wonder at irregularities, but I hope you will be tender in it for the future.

Sir *Edward Seymour.*] I ſpoke it now; if I am irregular, 'tis becauſe I am going into the Country with your leave, and ſhall not have opportunity to do it.

Sir *Thomas Lee.*] I think the Motion not irregular, for many more Reaſons, for re-commitment; for if the Bill be once brought in, in Parchment, at the laſt reading it muſt be laid aſide if it cannot be mended at the Table. I know 'tis a thing of great conſequence for Members to be taken out of this Houſe. But the ancient right, in the caſe of the five Members in 1640, was, that the cauſe of accuſations muſt be ſhowed in Parliament, and ought to be ſo, as well in accuſation of Treaſon, as ſuſpicion of Treaſon. Sir

Sir *William Williams.*] There is no Privilege to any Member in caſe of Treaſon—That care may be taken in the ingroſſment.

Sir *Richard Temple.*] No Privilege to a Member, *&c.* A Member may be accuſed untruly, for the cauſe and matter ought to be true. For Miſdemeanor, or breach of the Peace, a Member is not to be tried in time of Parliament. 'Twas the caſe of Lord *Devonſhire* *, and Lord *Lovelace.* They pleaded they ought not to be tried in time of Parliament, though the miſdemeanor was great, and done in the Court.

Sir *Thomas Clarges.*] The charge of the five Members was undoubtedly Treaſon, but to be taken out of the Houſe was a breach of Privilege, and afterwards owned and diſclaimed by King *Charles* I, to be a raſh attempt. A man may make a Motion for a Bill, in a thing unforeſeen, and if it cannot be well done at the Table, you may re-commit the Bill. I move therefore, that ſome few Gentlemen may draw a Clauſe. You run the utmoſt hazard by bringing in a rider, which cannot be mended at the Table, and ſo the thing may be utterly loſt.

Sir *Robert Howard.*] A thing of ſo ordinary and plain a nature as this may be brought in Parchment, and pray put an end to this thing.

Sir *Thomas Lee.*] If you think this Proviſo neceſſary, three words do it, *viz.* "Provided that it does not extend to Privilege of Parliament," and I hope you intend it to thoſe Members that do not attend in Parliament, and are abſent (*reflecting upon* Seymour *who had leave to go into the Country.*)

Tueſday, March 5.

Sir *Joſeph Tredenham* reports ſeveral Grievances to be preſented to the King for redreſs. *See the Journal.*

Sir *Robert Howard.*] You have received a Report from the Committee in general: I would have ſome uſe of it, though it is *actum agere*, to do it over again—

* For ſtriking Col. *Colepepper* in the verge of the Court.

We

We have a great example of the King; inſtead of thoſe indirect means uſed formerly to get Money, he has given you Money. He has been ſo far from breaking your Laws, that he has not ſo much as bowed them—I will wind all up in one Motion, to incite every Member to cloſe with it. I find all the Anſwers from *Burton* and *Graham*, relating to the blood ſpilt by their Proſecution, that of the Sheriffs of *London*, &c. "that they were but miniſterial in them;" they ought to be made an example, if they have a mind to gratify themſelves by that, to make them originals, and a Bill of Attainder to be brought againſt them. Let us free ourſelves from the guilt of that blood ſpilt, to all Poſterity, and not leave ill Miniſters, by theſe Examples, to do the ſame again. 'Tis impoſſible we ſhould live, and not have blood upon us, if we paſs this by unpuniſhed. The next is the murdering our Civil Rights in Corporations, in taking away Charters, *&c.* If we do not puniſh theſe things, Corruption ſtill remains encouraged, and we ſhall cauſe this to deſcend to Poſterity. If the fault be in the Jury, and they will not tell us who gave the Counſels, they muſt take it upon themſelves. To proceed upon ſome actings in this, I would have a ſelect Committee. Let it go to what fountain it will, were my own Father concerned. Not but that I would have a Committee of Grievances to ſit, but you may have a ſelect Committee to ſit upon Grievances, and you will find the parties and originals, or theſe men muſt make themſelves murderers of theſe men, and murderers of our Liberties. "No Calamity ſo great (ſays Lord *Coke*) as what is done under colour of Juſtice."

Mr *Howe*.] Theſe men are known to the boys in the ſtreets. The delay of this may put the people upon great diſcontents. Suppoſe a tradeſman dies, as a Shoe-maker, and another comes to take the Houſe, and finds Awls and Laſts in the Houſe, ſhall I believe a Painter lived in the Houſe? I would have theſe Awls and Laſts thrown out of the Houſe. I would have a ſelect Committee to enquire into this, and then

I hope

I hope you will have a good account of this, and let the tools be thrown away.

Sir *Thomas Clarges.*] There are a great many Grievances more than this, as the illegal Eccleſiaſtical Commiſſion; diſpenſing with the Oaths, *&c.* to the overthrow of all our Laws; Money levied by a Charter upon Hackney Coaches; if that be ſo, you will be tript out of all your rights quickly. I wiſh the Committee, after the diſcovery of all theſe Grievances, would have named the Perſons who had occaſioned them. Had they brought you in the Perſons who had offended, you might then have done ſomething. I could wiſh theſe Grievances might be re-committed, and ſo conſider farther of theſe Grievances, and find out the Perſons who occaſioned them.

Sir *Robert Clayton.*] I would not hunt too many Hares at once. If you take too many things, you will finiſh none. All we could get from *Burton* and *Graham* was, "that they had their direction from the Attorney General," and there is the end of the thread. Pray enquire of the Attorney General.

Sir *Edward Seymour.*] I am of opinion with *Clarges*, that all the Grievances of this Nation are not in the Committee's Report. We have great obligation to the King, who has relieved us from the oppreſſion of Chimney Money: But if I be not miſ-informed, we owe that to the lower end, and not to the higher end, of the Council-Table. If theſe men act again, who have countenanced theſe things, no body will be afraid to offend. When you have voted the Grievances, you may, by a private Committee, find out the Perſons. Puniſhment of Vice is as neceſſary as reward to Virtue.

Mr *Love.*] I am of opinion, that finding out miſchiefs will do no good, without remedying them. The two firſt Heads of the Bill relate to the City of *London* *. If you refer this till you have done all, you will never be at an end; it will find you work for a great while.

A Committee was appointed to examine what Perſons have been concerned in cauſing theſe Grievances, *&c.*

* The illegal Election of Sheriffs in 1682, and the Judgment upon the *Quo Warranto.*

Sir

Sir *Thomas Lee.*] No ordinary Treaſon is more dangerous than the practice of theſe men. I would have the Committee meet and examine their ſeveral practices, and then you may go to the Lords for committing them, as a Court, by the complaint of the Commons; elſe that Court cannot commit originally. A learned Lawyer (*Maynard*) has declared, that you are to proceed ſo in Common-Law Treaſons.

Major *Wildman*] I would conſider whether this be practicable immediately. Poſſibly they may demand *Habeas Corpus* before night. There are thirty in number committed, and moſt without any Law, and committed by no Authority in Law. 'Tis notorious that they have broken Privileges of Parliament, by taking away Corporation Charters, by engaging Subſcriptions to elect ſuch as the King ſhall nominate, to overthrow the very foundations of Parliaments. The way propoſed by *Lee* I think the beſt. But whether you will commit them for breach of Privilege of Parliament—You are told of a great ſum of Money that has gone through their hands. I would have them in your power, for they have been guilty of the greateſt ſubverſion of the Laws that ever was.

Sir *Thomas Clarges.*] I will agree that *Burton* and *Graham* are guilty of great Offences, but whether you will determine this breach of Privilege without hearing them? There is nothing expreſſed in the Warrant of Commitment of the cauſe of their Commitment, and I think there is no danger from the Lords Commiſſioners, who have three days to conſider of the *Habeas Corpus*, and by that time poſſibly you may have ſpecial matter againſt them; therefore we are not to infringe the Laws, be the offenders ever ſo great. I know not whether the Lords, *primâ inſtantiâ*, may commit Commoners: I would rather go ſome expeditious way, by Impeachment.

Col. *Birch.*] If any Gentleman of this Houſe will come and inform you of a breach of Privilege upon him, you never deny Commitment of the Perſon that did it. Scarce a Gen-

a Gentleman of this Houſe that will not agree this to be a horrible breach of Privilege. Let your Serjeant take them into cuſtody and examine them, and ſo you have them in cuſtody according to uſage of Parliament.

Mr *Paul Foley.*] I underſtand, a great many are in the *Tower*. If the King's Council, who hear us, will inform the King, ſome courſe may be taken with them. If this Houſe talk of breach of Privilege with men they intend to hang, it is a ſtrange courſe. There is no way we can proceed, but by Impeachment, and go generally to the Lords to accuſe them, and appoint a Committee to draw it up.

Sir *Richard Temple.*] 'Tis ſtrange that men who lie in the *Tower* for the greateſt Crimes, ſhould be fetched out for ſo low a thing as breach of Privilege, and if you impeach them for any thing under Treaſon, they may be bailed. I would have a Committee to draw up a charge againſt them. Any thing that tends to ſubvert the Laws is Treaſon. Parricide is as great a Crime as is in the World, but it is not High Treaſon. Before the Statute 25 *Edward* III, the greateſt Treaſon was ſubverting the Law, and even a Judge to break his Oath, was judged Treaſon at the Common Law. You may provide your Evidence againſt theſe men, after you have impeached them, and I hope you will bring them to Juſtice.

Sir *Chriſtopher Muſgrave.*] 'Tis your proper way to refer it to a Committee, to examine the matter, and then bring the accuſation; let the Committee report to the Houſe how the matter ſtands, but bring in no accuſation, leaving that to the Houſe.

Sir *Rowland Gwynn.*] *Burton*, *Graham*, and Lord *Jeffreys*, are committed with Crimes ſpecified; the reſt are not.

It was referred to a Committee to prepare accuſations, *&c.* and ſo report to the Houſe, *&c.*

[*March* 6 *, 7, and 8, omitted.]

* This day the Bill for ſuſpending the *Habeas Corpus* Act paſſed.

Saturday,

Saturday, March 9.

On a Motion for printing the Votes.

Sir *Thomas Lee.*] In the Roll of the 9th *Henry* IV, "Nothing is to be taken notice of in Parliament, but what you ſhall communicate to the King." I know not how the King may take notice of what you do, and if you print your Votes, the Lords may do the ſame. 'Twill only ſave the Gentlemen the trouble of writing to their Corporations.

Sir *Henry Capel.*] You are told of the 9th *Henry* IV. At that time, there were no Coffee-Houſes, and no Printing. If you could keep your Votes out of the Coffee-Houſes, and ſuppreſs the licentiouſneſs of Printing, otherwiſe you make ſecrets here of what all the World knows. Treaties are made public amongſt Princes, and 'tis no good thing to make ſecrets of that which is known. The World ought to know your Votes, and there is no harm in it. As to what is ſaid, "that the King will concern himſelf in your Votes;" the Lords Journals are open, and ſo are ours. I think we make more of this than it is worth. I would have them printed.

Sir *Joſeph Tredenham*] I cannot be perſuaded that any thing now, or heretofore, has been for your ſervice, by printing your Votes, but extremely to your diſſervice. I appeal how it is for your Honour to make a Reſolution in your Journal not to print your Votes, and now to make a contradiction in your Journal, to print them. Unleſs the cauſe of that contradiction do appear, it will make your Counſels of little value abroad in the World. That you ſhould alter your Reſolutions weakly is not for your Honour. What reaſon is there for moſt of your Orders, or for a Bill to be read three times, but for the more ſafety of your Proceedings? Whether it is for the Honour and Credit of the Houſe to vary Reſolutions, I appeal to you. Thoſe Rules and Meaſures our Anceſtors left us, are the ſafeſt way. The incon-

inconvenience every body is ſenſible of, in the ancient way of paſſing Bills by *Items*, where the King might reject and accept what he pleaſed. When the King ſhall come to take notice of what you do here, what becomes of your Liberty of Speech, and what becomes of your Freedom of Debates? 'Tis contrary to the courſe of nature here, to make a general publication of what you do, before you make it in courſe of Parliament. As for ſending your Votes to Coffee-Houſes, it is a great Crime; 'tis more for the ſervice of the Houſe that your Clerks take not that liberty to publiſh them in Coffee-Houſes, and moſt for your Honour not to print them.

Mr *Hampden.*] I ſee Gentlemen ready to put the Queſtion, when they think a man is againſt it. The Queſtion is, Whether you print your Votes? I am ſorry this Queſtion is ſtirred again. I remember it at the *Oxford* Parliament—(I know the Wheels that moved it then) I know that printing your Votes ſounded well abroad, and it ſeems a popular thing, like ſitting at *Charing Croſs*, but the People had much rather hear our Reaſons than our Votes, and no more. I have ſeen a Vote in a full Houſe, at ſix or ſeven o'clock at night; the Tide would not be ſtemmed, but there was a Vote paſſed; and when they thought better on it the next day, that Vote was unvoted again; whilſt this is in your book only, there is no hurt. Is this all the Argument, or does it look like one, that the People ſhould know what you do? No ordinary Council does it. The Lords have not done it. Should you deſire their concurrence to print their Votes, they will laugh at it, and their books are Records. One great Reaſon for it is for the ſake of the Bookſellers, or that younger Gentlemen may be able, when the elder are in their graves, to know the Proceedings of Parliament; but they will ſee no reaſons for them. Bills are not written in Paragraphs, but all of a piece, and there is a reaſon in it; not that the Clerks may read Blank, but the reaſon is, that there may be no forging in it. If you print your Votes, con-

conſider what it is. There may be an inconvenience of intercourſe; the Lords againſt our Privilege, and we againſt the Judicature of the Lords. The Lords may tell you, you have voted ſomething derogatory to the Crown, and ſend you word, What have you to do with it? If you print it, will it not be a ſtrange Meſſage, that the Crown ſhould ſend you word of what you do? You muſt ſend the Crown word, you intended not any thing againſt the Crown; and of what ſtrange conſequences may this be? I have no end in this but regularity and decency. I have as great reverence as any man has for this Houſe; and when you reverence yourſelves, the World will have it for you. I hope you will not print your Votes.

Sir *Richard Temple.*] This matter is of more moment than at firſt it ſeemed to be; little benefit, and great inconvenience, may come from it. I diſlike all innovations. In a great Aſſembly, what is done muſt be with great reaſon: There ought to be no innovation. All that can be proved for printing it, is to rectify Coffee-Houſes, and for beyond ſea. I ſaw, at *Oxford* Parliament, another thing gained, upon Commiſſions that Gentlemen had from their Country about the Excluſion-Bill. I hope we ſhall not imitate *Holland*, to go to our Principals for Inſtructions; it may be of dangerous conſequence to alter the Government. I hear of Balloting-Boxes; they have had them in *Scotland*, but they are weary of them, as precluding all Debates. This ſtrikes at the eſſential Privilege of Parliament, when you have advanced in a Bill, and then reject it, and the People know not the reaſon of that. I would have ſending the Votes to Coffee-Houſes redreſſed; but it is far leſs inconvenience than that your Reſolutions ſhould go about from yourſelves with approbation: I never heard any good reaſon for it, nor any good ſucceſs of it when done. 'Twill prove a levity without doors, to alter your Vote already made, and your Reaſons not known.

Sir

Sir *Thomas Littleton.*] I am for printing your Votes, and I ſee no inconvenience by it; it will be great if you do not print them. *England* has from the Clerks all you do, but not the truth of what you do; and 'tis fit *England* ſhould know both. In former Parliaments, when they were invading and undermining the People, they were aſhamed of it; but we are now under a King that preſerves our Liberties, and there is no reaſon but the People ſhould know it. 'Tis fit the People ſhould know the good things tranſacted betwixt the King and this Houſe. Such a union may have great influence both abroad and at home. I am for printing them.

Mr *Arnold.*] I would not have *L'Eſtrange* and *Nevil Payne*, write falſe news beyond ſea. I deſire the truth may be known, and am for printing them.

Sir *Robert Howard.*] Methinks the Debate is, Whether you will publiſh your Votes tacitly, or expreſsly? If they are publiſhed without the Stamp of Authority, it ſeems you will rather permit it by an unjuſtifiable way, than a juſtifiable. If you will keep your Books ſecret, perhaps I ſhall be for that; but if you ſuffer them to be publiſhed by other means, then is not printing the honeſter and juſter way? If the Queſtion be, Whether they be kept ſecret, or not, I have my opinion: I know not the methods of *Holland*, but now you have more juſtification for printing than you had formerly, when they were better not publiſhed at all, but kept ſecret. But this Parliament has been choſen in better methods—Poſſibly ſome Votes are fit that the World ſhould preſently ſee; but whether they ſhould be kept ſecret or not, I ſhall reſerve my thoughts; but whether you will print them is much the more juſtifiable way.

Sir *William Williams.*] I am ſorry this has been moved to-day. The Legality of doing it is out of the queſtion. Notwithſtanding all I have ſuffered for printing, by your Order, yet I think it not politic to do it now. It ſeems, 'twas a weak thing in me (when

Speaker) to obey the Houſe of Commons, and I was turned out, the laſt Parliament, and I believe that was the greateſt reaſon for it. When you have vindicated the poor men who ſuffered for printing, then I ſhall be for it. As for Precedents abroad, I ſhall not take my meaſures from methods abroad, but from our own Conſtitution: They are a Commonwealth, and we under a Monarchy. There every man has a ſhare in the Government, but here not. Your Reaſons will not appear with your Votes; and the People will not apprehend the Reaſons of your Contradictions. You will arm your enemies by it, and they will provide againſt your Counſels.

Mr *Paul Foley.*] Orders here are of ſeveral kinds; ſome are unfit to be publiſhed. You have Criminals come before you; 'tis unfitting their Accuſation ſhould be publiſhed, and unfitting the Evidence, that they may be prepared to ſurprize you.

Mr *Hampden*, jun.] Some Gentlemen argue, as if you ſhould keep your Debates as ſecret as you can; but I think, if you print your Votes, you lay a ſort of reſtraint upon yourſelves. As for what is ſaid of other Countries, Reſolutions in Council in *Holland* are final Deciſions, and fit they ſhould be known; but when they are not finiſhed (as in your Votes) it precludes your Liberty of Debate, and is a diſſervice to the Houſe.

Col. *Birch.*] I humbly tell you, I am heartily ſorry for this Debate, ſince 'tis not eaſy to ſee the conſequence; it will reflect every way, it will let the World ſee you are ſubject to change—One day, Money is to be raiſed on one thing, another day, you reject it, and the World ſees not your Reaſons. I am one of thoſe that are heartily ſorry for *Williams*'s great ſufferings, when he took the employment of Speaker upon him, and was truſted with the printing the Votes; and he did take upon him the Sollicitor General's place in King *James*'s time, becauſe he did not know any way to get his Fine again, but by ſuch an Office. This I

ſay,

ſay, for ſatisfaction to myſelf: I would not have Gentlemen take notice of it. When we debate here of projects to raiſe Money, perhaps the Book of Rates may ſave our Lands, and this may argue to the World impotency and weakneſs—In the mean time, any Gentleman may put out any thing in writing at his peril: 'Tis an unſeaſonable time, and an unſeaſonable Queſtion.

Mr *Sacheverell.*] I was againſt printing your Votes formerly, and am ſo ſtill. I think certainly, it will deſtroy all good correſpondence betwixt the two Houſes. Conſider how things ſtand: If Gentlemen pleaſe to remember, the Lords ſent down a Bill for the ſpeedy Conviction of the Popiſh Recuſants. This Houſe paſſed a Vote, that the Bill ſhould be rejected. How will that ſtand in your Books, that ſuch a Bill was rejected? You went an extraordinary way, to tack Reaſons why you rejected it; and you ſend into the country to ſubject it to their judgments. 'Twas ever held Parliamentary, that the King and Lords take no notice of what is done here, till communicated by the Houſe; and you, by printing, go about to tell every body what you do. You put yourſelves into an uncertain, unparliamentary condition, and I cannot agree to printing.

The previous Queſtion paſſed in the Negative, [180 to 145.]

Sir *Rowland Gwynn.*] I fear, if we conſider our condition, the Spring is far advanced, *Ireland* in diſorder, and *Scotland*, I fear, not well affected to what you do, and at home, I fear, not ſo well as we could wiſh; *Holland* diſappointed of aſſiſtance from us—I am ſorry we ſhould be, like *Martha* in the Scripture, minding little things, and not great. I deſire the King's Speech may be read, that we may mind what we ought.

Sir *Robert Howard.*] 'Tis very true, that it is neceſſary, *&c.* But beginning ſo late in the day will not add to the expedition; therefore go upon the King's Speech on *Monday*; and, to give it ſome reputation,

order a Committee of the whole Houſe, *&c.* and nothing to intervene.

[It was ordered accordingly.]

Monday, March 11.

In a Grand Committee on the King's Speech.

Sir *John Guiſe.*] There are three points touched upon in the King's Speech, relating to Money. The firſt is in relation to the advantage we have had from *Holland*, and what they have done for us, which we ought to be mighty ſenſible of, and touched with: And Gratitude becomes us—The danger for their Fleet in winter, *&c.* and the hazard that may be brought upon them by it. The next is, the conſideration of *Ireland:* I would willingly have ſeen the State of the Army, and the Expence. The next is the Revenue, of which I would have all the branches before you, that you may conſider, whether it ſhall be ſettled for Life, or Years.

Mr *Papillon.*] The conſideration of *Ireland*, the Fleet, and *Holland*, all depend upon the Revenue, of which ſome is for Life, ſome for a term of Years. Some, the other day, thought all the Revenue was veſted in the King; others did doubt it; therefore we ought to put it paſt doubt. Therefore I move for an Act to give and grant the Revenue to the King, that it may be collected without diſpute, and an indemnity for the collecting it ſince the Vacancy; and if the State of the Revenue be ready, I would have it delivered in by Sir *Robert Howard.*

Sir *Thomas Clarges.*] I would have the redundancy of the Crown Revenue, after the Government is ſupplied, applied to the uſes deſired in the King's Speech; I mean, take the Cuſtoms to be 600,000 *l.* one year with another. The Exciſe is a Revenue by itſelf. See to have alſo the Addition upon Linnen, Brandy, and Silk, and 400,000 *l.* taken up upon them, and little to be depended on them—The Hereditary Revenue—The end of my propoſition is, whether the Com-

Committee will take the Revenue as given in, or as I have reported it. I humbly propoſe, whether you will grant it for Life, or Years? I leave it to you.

Mr *Garroway.*] The Paper I have come by agrees with *Clarges*'s account; but I think you are not ripe to come to that Queſtion, whether the Revenue be ſtanding, or not—Whether the Charges, for particular perſons uſes, upon the Revenue, ſhall continue? Begin, upon a fair clean paper, theſe Charges, whether they ſhall be continued, or taken away; and in that I ſhall ſerve you as well as I can.

Mr *Sacheverell.*] I take it, the Revenue ceaſes; 'tis *raſa tabula*; and I would have a ſhort Bill to declare it ſo. Then you may declare ſuch a part hereditary; but I ſhall be againſt a great Revenue, as in former time. If all may begin anew, I am ready to agree.

Sir *Robert Cotton.*] If you declare all the Revenue fallen with King *James*, conſider that all the Revenue has been wrongfully collected ſince the Abdication.

Sir *Thomas Lee.*] I hope you may have a ſhorter way. I remember, when the Debate was the other day, ſome were of opinion, that the Revenue diſcontinued; the Hereditary Revenue was in another condition; but the Houſe avoided that Queſtion, and referred it to a Committee. The hereditary part of the Exciſe is not above 300,000 *l. per Ann.* granting it to be in the King and his Succeſſors from ſuch a day from the time you have declared the Abdication.

Col. *Birch.*] I think, the Parliament were very prudent in the year 1661. The caſe was then directly as it is now. The Revenue was ſuppoſed to ceaſe, and many, in *London* and elſewhere, heſitated the payment. You will not find it in your Journal, but in another place; and they declared, that it ſhould be collected as legally as it was, for about ſix weeks, by reaſon that, in the mean time, they might ſettle it as now it is. Paſs therefore a Queſtion, that the Revenue be collected as legally it might have been, *&c.* till farther conſideration be had of it. In ſhort, the country do ge-

nerally heſitate, and keep all in their hands except 15 *d.* the Barrel. Therefore firſt put the Queſtion, that the Money may come in to the reſpective Offices; and I would now order a Bill accordingly.

Mr *Garroway.*] I think you are not yet come ſo far. You ſay, it ſhall be collected; but you do not ſay to what end. Will you be tied up, by ſuch a Vote, before you determine whether it be a ſtanding Revenue, or an Aid? We know the burden of it, if you had, in *Charles* I's, *Charles* II's, and *James* II's time declared it ſo: You will have a hard taſk to alter it, without declaring it now to alter it hereafter. Declare it, one part as Revenue, the other as an Aid and Supply; otherwiſe I ſhall be againſt the Queſtion.

A Bill, from the Lords, for annulling and making void Lord *Ruſſel*'s Attainder, interpoſed in the Debate, [and was read the firſt time.]

Mr *Finch.*] I ſee many Gentlemens eyes are upon me; therefore I ſtand up to give an account of my Reaſons for the part I acted in that unfortunate buſineſs, that may more immediately concern me. *(He was taken down to Order, not ſpeaking properly againſt the Bill)* I am eaſily ſatisfied with the Determination of this Houſe. I am ſure, my Motion is for reading the Bill a ſecond time. I ſtand up only for one Clauſe in the Bill. Every Gentleman knows, as well as myſelf, that a Conſpiracy to levy War againſt the King, is Treaſon, by the Statute 25 *Edward* III. *(He was taken down again to Order.)* Give me leave to vindicate myſelf; what I ſhall offer will be very ſhort; the Reaſons I had to urge that point of Treaſon: If Law-Books have led me in the wrong, I am ready to rectify my opinion, whether to conſpire, without levying War, be Treaſon. 'Tis to conſpire the King's death, to keep him in cuſtody till ſuch things be done. 'Tis to conſpire, as in the caſe of Dr *Storey*, to invite a foreign Prince to invade the Kingdom, though nothing followed upon it. 'Twas Treaſon in Lord *Cobham*'s caſe,

upon

upon Debate of all the Judges, in the Report—— "Conſpiracy to levy War againſt the King" was, to conſpire againſt the Life of the King. To throw open all incloſures generally all over the Kingdom, was the caſe of the Miller of *Oxfordſhire*, who was actually executed. Upon this the difference ſtands in Books. Any general deſign (though not immediately againſt the King's perſon) to keep him in cuſtody, till he had confirmed any thing that the People would have, is Treaſon; as in the caſe of *Rea* and *Ramſey*, in *Ruſhworth*'s Collection—To raiſe War againſt the King, all the Judges declared it Treaſon. Having ſaid this, it is authority enough for any Lawyer to do what I did. Whether the Judges were in the wrong, I ſhall not determine. *He was taken down again by*

Sir *Henry Goodrick.*] 'Tis ſtrange to me to hear that learned Gentleman vindicate himſelf, when nobody accuſes him, and thereby to arraign the juſtice of the Bill for repealing the barbarity of this Attainder by this murder. This is not to be ſuffered.

The Speaker.] The learned Gentleman, from his own vindication in the part he acted relating to this noble Lord, *&c.* has let himſelf into Law-Books, againſt the Orders of the Houſe.

Mr *Finch.*] I aſk pardon of the Houſe. What I ſaid was not againſt Order, ſince the Houſe gave me leave to vindicate myſelf. I only ſhowed you what I had read, and am far from arraigning this noble perſon; I did not intend it, and have as much reſpect for this noble family as any body. And now I have vindicated myſelf as to my proceedings in matter of Law, I deſire the Bill may be read a ſecond time.

Sir *Henry Capel.*] For reſpect to the family and the memory of this noble Lord, I am ſorry this Gentleman did ſpeak; and to vindicate the memory of this noble Lord, read the Bill preſently. He has cited Book-caſes to juſtify his proceedings, *&c.* which is properly at a ſecond reading. I am ſurprized at this

Gentleman's proceeding, and am ſorry he has proceeded ſo far.

Sir *William Pulteney.*] I have as much honour for this perſon, *&c.* and noble family, as any body; but I would keep up Order. I would not have the Bill read a ſecond time now, but to-morrow. This learned Gentleman did make a vindication of himſelf. I will not undertake to anſwer him preſently; I may have occaſion to anſwer him to-morrow.

Sir *Robert Howard.*] I cannot name Lord *Ruſſel* without diſorder. I would neglect all things to read this Bill a ſecond time. Perhaps the learned Gentleman may tell us how large the Law is then; 'tis a ſufficient thing to name that noble Lord. I am not able to ſay any more; but pray read the Bill.

Sir *Thomas Lee.*] This Bill declares, "that the Law-Books the learned Gentleman has quoted were wrong;" and if he doubts it, the reading it a ſecond time will ſet that part right.

[The Bill (by Order) was read a ſecond time.]

Mr *Boſcawen.*] I have hearkened diligently to the learned perſon's Law-caſes. By the 25th of *Edw.* III, we are Judges here of the true intent of that Statute; and I would have it read—*(which was.)* I obſerve, by that Statute, the abridging Treaſon certain, which was before uncertain, for favour of the Subject. It ſeems to me ſtrange, if compaſſing the death of the King ſhould be Treaſon, and levying War, in another place of the Statute: If that be falſe, it muſt be taken out of the Bill. To me it ſeems to be a great wreſting of the Law. It ſeems to me to be a tranſcendent wreſting of the Law. Pray read the Bill a third time.

Sir *Thomas Clarges.*] I think the Bill is carefully penned, and I think the moſt that Lord *Ruſſel* could be guilty of, was but Miſpriſion of Treaſon, War being not actually levied.

Sir *Thomas Lee.*] If there be no objection againſt the Bill, it need not be committed.

Sir

Sir *Thomas Clarges.*] In one Clauſe of the Bill there may be two or three words left out. It is ſaid, "It is at the requeſt of the Earl of *Bedford* and Lady *Ruſſel* only." The juſtice of the Nation is greater to you than any particular Perſon's inducement. This Bill is not *ex Gratia*, all the Nation is concerned in it. When it is *ex Gratia*, it ought to be ſigned by the King.

[The Bill was ordered to be committed.]

On Mr *Howe*'s Motion for repealing Col. *Sidney*'s Attainder.

The Speaker.] The uſual way is to petition the King for the reverſal of an Attainder, but I know not whether it is the uſual way for the Commons to petition for a Bill, but with the Bill the Petition of the parties is annexed.

The Grand Committee was reſumed.

Mr *Pollexfen.*] From doubting one part of the Revenue or another, we may come to think there is no Revenue at all; and now ſettle it by Bill. You have brought in queſtion the collecting of the Revenue, and given indemnity to thoſe that gathered it, and, in the mean time, you give the Revenue to nobody. This is ſo great a loſs of time, that it is not ſerviceable to you, nor the preſent occaſion of the Nation, nor for the reputation of your affairs abroad. I thought it was taken for granted that it was a Revenue in the Crown, *&c.* and when you have done, three months hence you will be in the ſame doubts. You will have as much to do in this, as to determine whether it ſhall be for Life, or Years. To talk of "aſſiſting the King with your Lives and Fortunes," and not to enable the King!—To give him power to take the Revenue, and now to declare it is no Revenue! Settle it one way or other, without any thing of gathering it for three months upon uncertainty. This will lead you into ſuch a courſe that you will not know the end of it.

Sir *Thomas Lee.*] I think this does not loſe your time, if you will ſettle the Revenue. You ſaw, ſince *Pollexfen* declared his opinion, the People have been ſtill more

more in doubt. The Motion is made for all the Revenue, in the lump, and this may be paſſed in two or three days. Then you will conſider Ships, the King's family, Ambaſſadors, Judges, the Army, and a part for the King's neceſſary ſupport. Then you will find what may be ſpared for the Public, and how to ſupply it; till this be conſidered, what in time of Peace is requiſite, and what in War; if three months be too little, make it ſix. When the State of War is known, you will know how near this will go to the payment.

Sir *John Lowther.*] I will ſpeak plainly what every man's heart is full of. The King has expreſſed himſelf in all kindneſs. He has truſted you with all he has in the World, and given into your hands a conſiderable part of the Revenue; and if you have the ſame jealouſy of him, after all he has done and may do, this will gratify the *Jeſuits* and *France* more than 200,000 *l.* diſtributed and well given in the Houſe of Commons, to bring about their intereſt—

Sir *Chriſtopher Muſgrave.*] Seeing you have not taken notice, Mr *Hampden*, of what has been ſaid to the Orders of the Committee, I do take notice of it.

Sir *John Lowther.*] What I ſaid of Money, I meant to particular Perſons. There have been People who have received Money, and ſeeing the *Jeſuits* and Papiſts have ſpread theſe reports abroad, and foreign Miniſters will make Alliances with the States of *Holland*, and then if that State ceaſe their intercourſe with the King, application will be made to the Houſe of Commons, who give the Money, and not to the King—The wiſe part of the Houſe of Commons will underſtand this, though the weak do not.

Sir *Thomas Clarges.*] I am ſorry that, at this time, when all manner of Duty has been expreſſed to the King from this Houſe, there ſhould be reflections of "200,000 *l.* well given here." I remember, Perſons in former Parliaments had Places, and were to receive the Money they gave, therefore were freer to give Money than others,

others, and we did fear to give Money to others, and not to the King. Though we are not all upon one footing of Honour and Truſt, we are upon one equal footing of Truſt for our Country. I cannot make the Revenue be for longer time than has been propoſed. Is it not fit that you ſhould have three months to turn you in, that abuſes may not be in the collection of the Revenue? Therefore it is fit that for this temporary Bill you give it for three months, or as long as you pleaſe.

Sir *William Williams.*] In the laſt Parliament, he was the braveſt man, and ſome ſaid, fellow, that would give the King moſt Money. All were ſo much for giving, that the King ſaid, he would have no more that Seſſion. We are not now a Parliament of Officers. We repreſent now all the People, the wiſe and the weak. And I repreſent the weak. 'Tis not the work of weak men, to declare a preſent Proviſion for the Crown.

Sir *John Lowther.*] I was miſtaken in not giving the Revenue for three months, but only for collecting what Revenue King *James* had, and that Queſtion you have had ready for you—A ſafe, wiſe, and a ſudden Reſolve! The King did diſtinguiſh betwixt the Collection of the Revenue and the Settlement. I would declare it for three months.

Sir *Richard Temple.*] I would have all Arguments forborne of diſtruſt betwixt the King and us. I am very far from deſiring the ſhort Bill to be brought in for delay of Settlement of the Revenue. Can it be imagined that Bills ſhould be brought in for all the Revenue, on a ſudden? I would make no diſtinction in the Bill of what is continued and what not. Not by way of Grant.

Sir *Robert Howard.*] I ſpeak not for the poor or the rich, the weak or the ſtrong, of the Houſe. I have an Office, but in ſome Offices I would not have been employed,—(*reflecting upon* Williams) By the way, I would ſhow by a Motion to continue the Grand Committe, and to proceed on the Settlement of the Revenue;

venue; though for the preſent we proceed only on the Temporary Bill.

Mr *Boſcawen.*] According to courſe of Parliament, if you grant the King an Aid, and he accept it, the Anſwer is, *Grandmerciey ſes bons ſujets*, &c. If this be no Grant, what Anſwer ſhall the King give to this Bill? If as a Grant of Subſidy, the King thanks for it. There is not ſo much danger in the fault of collecting it as going this way. I am of opinion rather of a Vote of the Lords and Commons to ſtrengthen it for the preſent. I ſhall agree to it, but it is an ill expedient, and you will be in this box, and not know how to get out of it.

Mr *Eyre.*] If this be determined, you arrive not at your end. I ſee, in this matter of the Revenue, we go on very heavily. In a matter of this moment to ſupport the honour of the King, whatever you do in this Bill, if it goes as is propoſed, you do leſs than nothing, to the joy of your Enemies, and ſorrow of your Friends. Therefore I propoſe a Vote, that you grant the King a Revenue for Life of 1,200,000 *l. per ann.* made up of ſuch *Items* as in the particular, *&c.* A great Revenue has been a great Grievance, but it was by no other method than we had put in their hands. Such a Revenue will be an evidence of affection to the King, and will ſupport the neceſſary charge of the Kingdom. And while this is the ſtandard, it can have no oppreſſion; and leſs than this propoſed cannot be thought of. It will be in a Proteſtant hand, and you cannot doubt but the ſpareable part will be treaſured up for the good of the Subject.

Sir *Thomas Littleton.*] It has been well moved a great while ſince, and I wonder at no concluſion upon it. To ſettle it for three months is the moſt acceptable and expeditious thing you can do. The King does not expect that you ſhould ſettle the Revenue immediately, without great caution and conſideration. Therefore that the King may be in no inconvenience, ſettle it for three months; which will be ſo far from a diſtruſt, that it

is

is kindly and gratefully done by the People, and the King will take it well from you.

Mr *Finch.*] You give the King double the Revenue, if you do it for three months t You give him the Revenue, and the hearts of the People. This you will do in two days, and perhaps the other way not in two months.

Mr *Pollexfen.*] If you ſay, "I will not give the King this Revenue, but thoſe that pay it not ſhall be under all the penalties as if it was given," this will raiſe all the jealouſy and ſhame upon us imaginable abroad.

Sir *Henry Capel.*] 'Tis not the intention of any man here to give the King the Revenue for three months, and *Pollexfen* miſtakes the thing. We are beholden to thoſe Gentlemen who put us in this method at firſt. The Book of Rates, the Act for Exciſe, we do not yet know; there are complaints of the ill adminiſtration of them; now is the time to correct it. I ſpeak it to the Honour of the Gentleman that made the Motion, that you will have no delay in the thing. Then you will ſee the whole eſtabliſhment and the expences, and what to give for an eſtabliſhed Revenue. 'Tis not a time to name the Revenue now; 'tis the doubt of ſome Perſons whether the Revenue is, or is not ſunk; but continue the Revenue entire for three months, for ſupport of the Crown, and all will agree to it.

Sir *John Holt.*] For time to conſider the Revenue, I do not oppoſe it, but as to the hereditary part of the Revenue, if that be determined, there will be no need of ſuch an Act. Some are of opinion that it is determined, but I have not heard one Reaſon for it. If the King accepts this, the Queſtion is determined; and it is in being; the Revenue was given to the Crown of *England*, and annexed to the Office of King *William* and Queen *Mary*; it continues, and ſtands in no need of a temporary Act of Parliament.

Mr *Wogan.*] It would be ſtrange if the Revenue granted the Crown, upon a valuable conſideration, inſtead of the Court of Wards, ſhould determine with the late King *James*. Was it granted on any other conſideration?

Sir

Sir *Thomas Lee.*] I am indifferent whether you put it on the hereditary, or temporary Revenue. If you had gone according to the Opinion of the learned Gentlemen, you had made no Act, but let them go on to collect the Revenue. The hereditary Revenue is ſo little, that, I believe, the Houſe will ſupply it; the reaſon why it is aſſerted is, that part muſt go with the Crown of *England.* But when the King muſt alien this to the Bankers, this muſt make ſuch men as me ſcruple the matter.

Sir *Wm Williams.*] 'Tis not the opinion of five or ſix men of the Robe that will guide, but what the Law is.

Reſolved, That it is the opinion of this Committee, that a Bill be brought in to collect the Revenue till the 24th of *June* 1689, with a Clauſe of Indemnity to all who have collected it ſince *November* 5, 1688, and before the 13th of *February* next enſuing. [Agreed to by the Houſe.]

On the King's Speech.

Mr *Godolphin.*] The King's Speech is of weight, not only for the ſubſtance but order of it. I think, the Propoſitions are to conſider the Revenue. Till you have provided for *Holland,* you cannot be ſure whether you have a Revenue at all. Should you not take care to preſerve them that have done ſo much for you, they may put themſelves into hands that may pay them.

Mr *Harbord.*] I think that Gentleman in the right, I would leave it at large. I would take the conſideration of the King's Speech in general, and not confine it to the Revenue.

[*March* 12 and 13, Omitted.]

Thurſday, March 14.

In a Grand Committee on the King's Speech. Mr *Hampden* in the Chair.

Mr *Hampden,* jun.] You have made a Vote to ſtand by the King with your lives and fortunes, in defence of the Laws of the Proteſtant Religion, and the King

King has given you a gracious Anſwer to your Addreſs, and in a great meaſure has opened the preſent affairs of the Nation and his Allies. The condition they are in, and their deliverance, is in great meaſure owing to the *Dutch* Army under his Conduct, and they have brought a great charge upon themſelves. The *French* King threatens *Holland*, and they muſt have a great Army to ſtop this torrent. In *North Holland* there are more Papiſts than Proteſtants, and in other places, they have nothing to depend upon but your Generoſity. *Ireland* muſt be thought of; beſides what the King informs you of, you have it from other Gentlemen that 20,000 Horſe and Foot are the leaſt you can ſend to reduce it; which will require a great ſum of Money; but the King promiſes you it ſhall be laid out for the uſe of the Nation. It is a difficult matter what to propoſe; but I humbly offer what has been done on the like occaſion in neighbouring Countries to yours. The *Dutch* had formerly War with *Spain*, and lately with the *French* King. They did, at the beginning of the year, make their State of War, and computed the Expences for carrying it on. By this, they took their meaſures from the King of *France*, who can raiſe what Money he pleaſes. He makes the State of War himſelf, charges the Provinces, and they levy it to his ſatisfaction. I move that we may addreſs the King, that we may have a Scheme or ſhort State of the War drawn, of the expence we muſt be at. As for the payment of his debt to the *Dutch*, that is in pretty good forwardneſs.

Sir *Joſeph Tredenham.*] 'Tis abſolutely neceſſary to ſupport the Government, and the Revenue is neceſſary to be ſettled for the ſupport of the Government. The methods propoſed to you laſt time the Committee ſat may be conſidered. We lie under the greateſt obligation imaginable to the King, who has delivered us, and eaſed us from a Tax ſo burdenſome to the People. You are not yet ready, I conceive, for *Hampden*'s Motion, but for the ordinary Expences, 'tis abſolutely neceſſary to ſupport the Government.

Sir

Sir *Richard Temple.*] You are upon a method to proceed upon the King's Speech; all that has been moved has been contributary to it. I would have all you are to do before you, and then you will know what to apply to the Civil Government, and the other Matters; as the Expence of the *Dutch*; and next, to aſſiſt the *Dutch* according to the Alliance, and the charge of it by computation given in; then, the farther charge of the Navy, beſides what you are to aſſiſt the *Dutch* with; and then, the computation of the Affairs of *Ireland.* The King tells us, for *Ireland* it will require 20,000 men; what Horſe, what Foot, *&c.* with the charge of tranſportation.

Sir *Thomas Lee.*] Conſider firſt the charge of this preſent year, and then know what will make up theſe extraordinary charges. For the Fleet, and other charges, we are not tied up to a computation brought in to us, but what we ſhall judge of it.

Sir *William Williams.*] I never knew the Houſe get any thing by looking into Bills of Parcels. I am as willing as any man to give Aid as far as the Kingdom can bear it. I would conſider what we are able to do, and you ſhall ſee I am in earneſt to come roundly to it. Firſt, make a retribution to the States of *Holland*, and leave the King to diſpoſe of it as he thinks good. 'Tis their Men, and Money, that have done our Work. I move for a ſum not exceeding 500,000 *l.* for that purpoſe.

Mr *Papillon.*] Our condition is not ſo ſecure as it is thought. There is a great enemy that has an intention to deſtroy both the *Dutch* and us. Here is yet no Settlement of the Revenue, and they will be hard put to it. I ſee not ſo hearty a union abroad, as I could wiſh, though I am glad to ſee it in this Houſe; but I fear there is an intention to undermine us. Here is yet no Settlement of the Revenue, the Oaths, nor the Courts of Juſtice. We know the computation of the charge pretty near, and I believe the whole about 6 or 700,000 *l.* If you voluntarily give the *Dutch* ſuch a Sum,

Sum, without caſting it up to a penny or two pence. But it is to me of great conſequence, that as we addreſs the King on other Occaſions, we may do it on this, that if we do ſupport Alliances, we may be fixed in them. You cannot avoid War with *France*, and you muſt ſupport Alliances, and let the King know ſo much. As for the charge of *Ireland*, it is eaſily known, 20,000 men being the number given in; if we go to particulars, we ſhall never have an end. And as for the Cuſtoms, though ſome of them have been irregular, yet gather them as they have been theſe twenty eight years. Therefore I would addreſs the King for an Alliance with the *Dutch*, which will ſave us, and we will ſupply him to ſupport them.

Mr *Harbord.*] The King, in his great Prudence, cauſed the *Dutch* Ambaſſador to make an Account in general; accordingly the Secretary of the Admiralty made a computation of the charge. I have it in my hand. The King likewiſe commanded the charge of *Ireland* to be computed, beſides our defence at home; but that will not be perfect till to-morrow.

Sir *Thomas Clarges.*] I would have ſomething we underſtand. The Account is in Guilders; we know not the value of them. I would have them computed to the value of our Money. The Debate runs upon Aid and Supply. Is it not fit to ſtate the Revenue, what it is for the maintenance of the Government? 'Tis not reaſonable we ſhould bear all the charge. *Taken down to Order by*

Mr *Harbord.*] 'Tis ſaid, "'tis not reaſonable *England* ſhould bear all the charge"—The Prince took the ancient Troops of the States, and agreed with the *German* Princes to ſupply them; they had the Money, and the Prince has bought them for ever; and 'tis not reaſonable that *England* ſhould pay all that charge for ſix months expedition only. I told the King, it was impoſſible to ſupply all at once. "Therefore (ſays the King) I deſire 200,000 *l.* down, and the reſt of the payments betwixt this and next Spring;" but there will not be ſo much for *Ireland* as for *Holland.* If the King of *France*, by

fair or foul means, makes Peace with *Holland*, you may throw your Caps at *Ireland*—If the *French* King ſpreads his Money among the *Dutch*, and ſays, "I have ſeized your ſhips, but will let them go, and will make Peace with you and the Emperor," what impreſſion will this make among the Populace! Says the King, "Let the World ſee you take *Holland* into your Arms, their ſpirits will riſe, and be able to defend themſelves:" Say they, "Give us but this credit, if your fleet is not ready, our's ſhall be." But as for the Revenue, it cannot be computed; the Cuſtoms, by reaſon of the *French* goods, *&c.* fall to nothing.

Sir *Thomas Clarges.*] I am ready to give the States of *Holland* all the returns of thanks for their great Aſſiſtance in our extremity, and would have a union of Coalition to ſupport them, and ourſelves; but I would conſider what condition we are in. Says *Harbord*, "they are ready to go into a War with *France*, and what becomes of your Revenue then?" But conſider, if the Exciſe be certain, if the Cuſtoms do fall, we may aid the King from time to time for that defect. At the preſent, here is 500,000 *l.* beſides 1,200,000 *l. per ann.*—We have already given 400,000 *l.* and was it not upon part of the obligation to *Holland?* I do ſay, beſides all the uncertainty, there is 500,000 *l.* to ſupply all neceſſities. Take out the ordinary Revenue, and you have latitude upon the reſt for taking Money up upon ſecurity. The Treaſure of the Nation is in your hands. I ſuppoſe you will diſpoſe wiſely of what is above the ordinary Expence of the Government.

Mr *Papillon.*] Eleven Guilders is 10 *s.* ſterling, which, by ordinary Computation, will come to 663,752 *l.* ſterling, for the *Dutch* charges.

Mr *Howe.*] There were reflections abroad on our Proceedings yeſterday—I would not believe ourſelves like bullies, to eat and drink at a tavern, then quarrel with one another, go away, and leave the reckoning unpaid; and I fear we ſhall leave the *Dutch* ſo. As the Gentleman ſaid to his Creditors, "he will tell them to-morrow when they ſhall come again." We are told

of

of the *French* King and King *James* making preparations for *Ireland*; but he comes not thither as King *James*, but as the *French* King's Miniſter. He has the *French* King's *Intendant des Finances*, and the *French* King has made Regents over him, as ſome would have made him here. If you would have the Papiſts turn our Churches into Chapels, and make bonfires of the Proteſtants, then put this Debate off till to-morrow. Therefore I move that Mr *Hampden* may leave the Chair, and that the Houſe be moved for a Supply, *&c.* and give the People credit, that the delay may be no longer laid upon us; and name a ſum of Money for the States of *Holland*, *&c.*

Mr *Harbord.*] You have had a good Motion made. I would not have Mr *Hampden* leave the Chair till you reſolve to move the Houſe for a Supply for the *Dutch*, according to the Computation given in.

Mr *Hampden*] The Committee never makes a Motion for a ſum: That is made in the Houſe.

Mr *Godolphin.*] The Gentleman over the way was upon a topic to induce the Houſe to give Money, *&c.* which was from the *French* King's tampering in *Holland*, *&c.* I was in *Holland* when this Houſe was zealous for an actual War with *France*, and then a Peace was privately treated with *France*; which we ought to prevent now. If we cannot reduce *Ireland*, unleſs we ſecure *Holland*, that muſt be your firſt ſtep. I move therefore, that the King be addreſſed to make a ſtricter Alliance with the States, and invite the Emperor into it, for common ſecurity againſt *France.*

Mr *Pollexfen.*] Though we pay more for this Expedition than it has coſt the *Dutch*, let us not enter into particulars; it will more heartily ſhow our affection without examining them. The intereſt of the King puts us upon embracing the *Dutch*; if we ſhow coldneſs, or delay, to aid and aſſiſt them, what will the World ſay? That we do not make returns for what they have done for us. I know no King, but the *French* King, that can hurt us, and conſidering what our Anceſtors have done, have we not by the prevalency of that King de-

ſtroyed our Neighbours? Let the World ſee we are returned to our ſenſes, and that we are truly *Engliſh*.

The Speaker took the Chair.

Mr *Boſcawen*.] The nature of the Queſtion is, "To give the King a Supply, to enable him to re-imburſe the *Dutch*, &c." If the Gentleman means to prove the charge, *Harbord* told you the King had examined it; and I believe if you will examine it farther, you will get nothing by that.

Sir *Thomas Lee*.] I confeſs, I know not how to ſpeak in this. It ſeems, by ſome Gentlemen, if we come not to a ſudden Reſolution in this, we are undone; but poſſibly this Nation and *Holland* will not be loſt for one night's conſideration. I have ſeen Money granted here ſuddenly, but by them that have had ſhares in it afterwards. If the importance of this be ſuch that we muſt break Order, as formerly in the Long Parliament.—

Mr *Howe*.] When I heard *Lee* move, I looked to ſee what o'clock it was. I would leave dinners for once, and go on.

Sir *William Williams*.] I can faſt as well as *Howe*, but I cannot pray ſo well.

Mr *Howe*.] If *Williams* had gone on in the way he was once in, we ſhould have had all faſting and no praying.

Sir *William Williams*.] *Howe* has forgot that the Biſhops were acquitted, and who had a hand in doing it.

Mr *Howe*.] I proteſt, I do not accuſe *Williams* for acquitting them.

[The Debate was adjourned.]

Friday, March 15.

Mr *Harbord*.] Lord *Dumbarton*'s Regiment, which is now Marſhal *Schomberg*'s, with the Grenadiers and ſome Officers, have deſerted, and choſen two Captains. They have ſeized the Artillery at *Ipſwich*, and have made Proclamation for King *James*. The Regiment of Fuſileers is at *Harwich*; they ſay, they will declare with them. They are 1500 men, with the Train of Artillery,

tillery*, and how many will join them I do not know.

Sir *Jonathan Jennings.*] In order to what has been reported, certainly I believe there is more than ordinary in theſe things. I have received a Letter from the Mayor of *Rippon*, of ſome Papiſts, to the ſame effect; that the Papiſts are very high, ride in numbers, and have cabals. Therefore I think it fit that you ſecure your ſitting here, and that the Government may be preſerved.

Mr *Harbord.*] I hear, by Letters from *Norwich*, "that a Papiſt was ſeen by ſeveral to go into a Houſe, and immediately the Houſe was on fire, and he got to a place to have the proſpect of it." The perſon is examined and ſecured.

Mr *Howe.*] When we look before us, and ſee theſe things, there is a fault ſomewhere. I would know how theſe Officers remain in command; and would addreſs the King that ſome of the *Dutch* Troops may be ſent after them. I ſay "*Dutch* Troops." I know not which elſe to truſt.

Sir *Richard Temple.*] You ſee the preſent condition you are in. I would revive the Committee for baniſhing the Papiſts out of town. I know not what to adviſe you, unleſs an Addreſs to the King to take ſome ſpeedy courſe with the Papiſts; and I would have a Bill, "That, if any perſon ſhall write, ſpeak, or declare for King *James*, he be ſpeedily brought to tryal."

Col. *Birch.*] This is no jeſting buſineſs; this is the countenance of more men than thoſe ſix hundred that were quartered at *Brentford*, and went away with their arms; and I believed they would come to the reſt—This is not done without conduct, and you will have an Army in a few days. I would addreſs the King, "That ſome foot and horſe of the King's own, and

* Theſe Regiments had been ordered by his Majeſty (with ſome others) to repair to the Sea ſide, under the command of Lord *Churchill*. (*See the Journal*) They all took the road to *Scotland*. General *Ginkle* was ordered to purſue them with a ſufficient force of horſe and dragoons, who ſoon obliged them to ſubmit to the King's mercy; and the only puniſhment he inflicted on them was to ſend them over to ſerve in *Holland*.

what may be truſted, may join together," and I hope, without a Bill, to diſpatch theſe Men.

Mr *Hampden.*] For the nature of the thing, I ſhall ſtate the caſe; you need not be long reſolving. I believe this an actual levying War by 25 *Edward* III. You cannot have counſel here that will be difficult. Do you but reſolve this to be Treaſon, and if King *William* and Queen *Mary* be King and Queen, this is Treaſon; and correſpondence, upon levying War, is Treaſon, I believe. I would apply to the King to take ſome courſe in this, and that you will aſſiſt him.

Sir *William Williams.*] No doubt this is an actual levying War. Since you have acknowledged King *William* and Queen *Mary* to be King and Queen, whoever does adhere to the King's enemies, in or out of the Kingdom, 'tis Treaſon; ſo you need not make a Law for it *ex poſt facto*, but 'tis provided by your old Law to be Treaſon; for they are King and Queen *de facto*; and that Law is a ſafe foundation for you to go upon; and come to a ſpeedy reſolution of this Houſe, that they have committed Treaſon, and ſo bring them to a ſpeedy judgment, and thus the People will go along with you.

Sir *George Treby.*] In this, I obſerve one thing, that it is good we have a King, for if we had had no King, nor Parliament ſitting, ſince they are ſo inſolent in the face of the King and Parliament, what would they have done if the Nation had wanted one of them? In this Criſis, if we cannot defend ourſelves by Law and Sword, 'tis time for us to dig our Graves, and lie down in them. Can any man doubt that this is Treaſon? Your declaring it to be Treaſon will weaken it, as if it were a doubt. I confeſs, I am not capable of adviſing you what to do, and (with great reſpect) I think this Houſe not proper for military mens advice. We muſt go to War and open force, and we muſt oppoſe force with force, and maintain in the Field what we have done in our Council and Senate. Therefore I move that the Lord Lieutenancies and Deputies may be in ſuch hands as the Kingdom may be, and we ſit in ſafety.

ſafety. I think all the powers of our profeſſion uſeleſs in ſuch a caſe.

Sir *Robert Clayton.*] The wonder of all this is, that we have not heard one word of the Trumpeters of theſe Diſorders. They cannot forbear reflections upon Perſons the Nation has an Honour for. At *Newcaſtle*, ſome Prieſts labour, all they can, to promote this Work. I would have ſomething done to ſtop theſe people's mouths.

Col. *Mildmay.*] 'Tis generally believed that theſe you are informed of are not barely alone, but that 'tis univerſal; and, as for thoſe Trumpeters, who have forborne praying for King *William* and Queen *Mary*, and go not to church to hear it prayed, the Queſtion is, which is the beſt way to prevent this? 'Tis ſaid, "What is done in ſo great an Aſſembly will not be long a ſecret." I think this proper in the King's Council to whom you have given the Government. The Militia of *England* is a great body, 150,000 men, that ſerve you *gratis*; they bear their own charges, and you are ſafe in them. This being delayed (with ſome other things which have been too long) I cannot wonder now at the circumſtances we are under: I rather wonder that we are ſo well, than ſo ill. I would recommend it to the King to ſettle the Militia, and eſpecially that of *London*. As for the Money, I doubt not that you will loſe any time. In the mean time, I would have Letters to the Sheriffs to ſtop them in their march.

Sir *Henry Capel.*] I think you are ripe for a Queſtion. It is plain by what I have heard from the Robe that this is Treaſon. Correſponding with the late King is Treaſon. I hope in time, that care will be taken that this impudence of preaching may be taken care of, and it will be mended. I would apply to the King for a Proclamation againſt theſe men.

Major *Wildman.*] I have heard ſad news, and many things have been well propoſed; but the ſuppreſſing theſe men it is proper to leave to the King: But we ought to repreſent it to the King; and now we ſee ſo

great a boil broke out, how many are like to break out. 'Tis our Duty to inform the King what we hear from all parts. I muſt inform the Houſe that I have letters every day of the ill condition of the Soldiers in their Quarters; at *Newbury*, *Abingdon*, and other places, they would not ſuffer the cryer, or bell-man, to ſay, "God bleſs King *William* and Queen *Mary*!" There are Papers caſt about, to fright people with the change of the Government, with millions; hundreds of theſe are diſperſed; I have received ſome. The diſeaſe is ſo general, I know not what to propoſe; but 'tis proper for this Houſe to give the King the beſt Informations we can of the Officers who connive at theſe things. I offer to the Houſe to addreſs the King to take a ſpecial care of the places where the late King's Soldiers are quartered, and eſpecially to have an eye that the Officers prevent diſorders, and to be fully aſſured of his Officers, both Civil and Military.

Mr *Hampden.*] I offer it, notwithſtanding the opinion of the learned Gentlemen, as I am not of opinion, "that it is a vain thing to declare this Deſertion of the Soldiers to be Treaſon." This at the firſt was taken only for Soldiers mutinying, but what is there in declaring this to be within the 25th of *Edward* III? Soldiers deſerting and correſponding with the King's Enemies to be Treaſon? You muſt ſpeak out and ſay, this is High Treaſon, and this will put an end to it, and men will be afraid to countenance it; and go to the Lords, that, by your joint advice, the King may iſſue out his Proclamation to inforce the Law, as your advice, as the only proper remedy, and that you will give the King your aſſiſtance in it.

Sir *John Lowther.*] At the ſame time when you adviſe the Proclamation, conſider the occaſion, and then the proper remedies, that the cauſe may be taken away. In former reigns, criminals were ſo much the more enemies by how much they were in deſperation, and therefore I would put men out of doubt, and make as many friends as we can. Therefore I move, that whether, as you made a ſtrict enquiry into Grievances, there

there may not as well be an Act of Oblivion at the ſame time, and, at the ſame time, that you addreſs the King to proclaim his pardon to ſuch as ſhall ſurrender themſelves, and return to their obedience and duty.

Sir *Robert Howard.*] The Lords and Commons addreſſing the King makes the Proclamation have greater force, and next to an Act of Parliament; but as for the Oblivion juſt moved to be put in, it looks as if you were afraid, and is a kind of ſeconding theſe men in their Rebellion, and all this will look little leſs than an Act of Parliament.

An Addreſs was voted, &c.

[*Reſolved*, in a Grand Committee, That 600,000 *l.* be given to his Majeſty to enable him to defray the Charges laid out by the *Dutch*, in the Expedition for *England.*]

Saturday, March 16.

Serjeant *Maynard.*] We are ſo mealy-mouthed and ſoft-handed to the Papiſts, that it occaſions their inſolence. I think it is fitting that all Papiſts ſhould reſort to their own dwellings, and not depart without Licences from the next Juſtices; and another thing, that all thoſe of that Religion bring all their fire-arms in, unleſs for the neceſſary defence of their Houſes, to officers appointed. 'Tis not our Votes, nor the Ordinances of Lords and Commons, nor our being hot here, that will do it. I would not imitate their Cruelty: I am far from it. I would let them have their Religion in their private Houſes, but no harbouring Prieſts and *Jeſuits.* You'll pardon my boldneſs, but I hope I have done my duty.

Col. *Birch.*] I think *Maynard*'s is an excellent Motion, and in good time. If we make a new Bill, perhaps it will not do ſo well, but, upon this Motion of *Maynard*'s, I would refer it to the ſame Committee for the Lords Bill, and farther, that the Informer may have half the Arms for his diſcovery.

Mr *Wogan.*] If you find not a way to convict them, you cannot diſarm them. I would have a Clauſe for it in the Bill.

Serjeant

Serjeant *Maynard.*] If any Papiſt ſhould have a hand in firing Houſes, he ſhould be compelled to help to rebuild them. For the preſent, if they do not deliver their Arms upon the King's Proclamation, they ſhall be ſubject to ſuch penalties as the Law ſhall direct; in the mean time, that they be admoniſhed.

The Speaker.] I would not have this without effect, which, I apprehend, it will be unleſs they are convicted, and being not convicted they will ſay they are not concerned, not being convicted, and not one man will go out of Town, nor deliver their Arms. Unleſs actually convicted, you cannot know a Papiſt, and you will have no effect of this Proclamation.

Serjeant *Maynard.*] What you ſay is true, but they know themſelves to be Papiſts, and upon the Proclamation you may lay your hands upon them ſeverely.

Mr *Hampden.*] The inſolence of the Papiſts is grown great, I hear out of the Country. Do not give them encouragement by a *brutum fulmen.* I will not contradict *Maynard* in point of Law; I know not who are Papiſts. He muſt be a legal Papiſt, elſe he is not within the Proclamation. Proclamations are to inforce, not to make, Laws. He will keep his Houſe according to Law, and not go out of Town. What Law have you to compell him to deliver his Horſes? There you make a Law clearly. I would not have Gentlemen think that I believe it not juſt; but will you adviſe the King to cauſe the Papiſts to deliver up all ſorts of Horſes, that are fit for warlike ſervice, either for baggage, or dragoons? We ſhall terrify people by this Proclamation, the Parliament now ſitting; and we are told we muſt make an Act to do it. I confeſs this is new; I never heard it in a Proclamation before. If you adviſe the King this, he will ſay, "ſee you adviſe me according to Law;" he will order his Counſel learned to draw it up; but they will ſay, 'tis not according to Law. 'Tis a hard point; if theſe objections are not of weight, I am miſtaken. But you may have a Law to offer the Papiſts the Teſts, and you may have it preſently executed by Juſtices of the Peace, when they

they are named. Something muſt be done, and ſpeedily done, but put not yourſelves upon difficulties, nor the King, but if you will have a ſhort Law for convicting them, I am for it.

Mr *Howe.*] If theſe Gentlemen, the Papiſts, want Paper to ſtop their Guns, they may do it with Proclamations. I would have the King take up ſuch perſons as he may have juſt cauſe to ſuſpect.

Col. *Birch.*] I would not have this Morning's Debate loſt, but have ſome fruits of it. I humbly deſire that a Committee may ſit, and, upon Debate of the Houſe, a Bill may be brought in to convict them.

Sir *Richard Temple.*] I doubt that Bill will not do your buſineſs that is calculated for *London*; you will ſo alter the frame of that Bill, that it would be better to have it in another Bill.

[*Reſolved*, That a Bill be brought in for the more ſpeedy convicting and diſarming of Papiſts.]

Mrs *Fitzharris* * delivered a Petition of Diſcovery, relating to the Hardſhips her Huſband was under in the *Tower*, and the undue Practices in ſtifling the Evidence he could give of the Popiſh Plot.

Col. *Birch.*] I was afraid this woman would cozen me when ſhe delivered me this Petition to preſent you. I durſt not truſt myſelf with her alone; therefore I got two or three to be with me. I move you, that two or three days hence the perſons ſhe mentions may come hither for diſcovery.

Sir *Robert Sawyer.*] Upon examination, I find nothing but clamour in this buſineſs. There was an Order of Council to prepare an Indictment of High Treaſon againſt *Fitzharris*, before the Parliament met at *Oxford*. 'Tis true, in the *Oxford* Parliament, a general Impeachment of High Treaſon was brought up by the Commons to the Lords againſt him. The Lords upon Debate reſolved, "That he ſhould be proceeded againſt in the common courſe of Law." After that Parliament was diſſolved, I was ordered to proceed againſt

* Relict of *Edward Fitzharris*. [*See Vol.* VIII.]

him

him, according to the Directions of the Lords in Parliament; he was not at all charged in particular in Parliament, thereupon an Indictment was brought according to Law. When the King's Priſoner is brought by *Habeas Corpus*, if he be not tried the ſecond time, he is diſcharged. 'Twas impoſſible he ſhould be tried upon that Impeachment, for it was general, and otherwiſe he could not have been tried in the *King's Bench*.

Sir *Robert Howard*.] I remember that I was engaged in that buſineſs at *Oxford*. I was informed that ſeveral great Perſons were concerned; I did move examining too far, as was then thought. You paſſed ſome Votes upon it. Certainly that buſineſs did carry the greateſt diſcovery againſt the Proteſtants that ever was. I move that you will appoint a day for this, *&c.*

Mr *Garroway*.] I remember there was then great fear upon us, of trepanning Members, who were to have had papers put in their pockets, of a treaſonable nature to deſtroy us; upon our enquiry into this we were diſſolved. We ſent up Sir *Lionel Jenkins* to impeach *Fitzharris*, but no particulars were ſent up; but Sir *William Jones* and Sir *Francis Winnington* drew up a Queſtion then, "That if any one proceeded to try *Fitzharris*, or any one impeached in Parliament, they were enemies to the Government." I ſuppoſe, in examining this matter, you may find ſomething of uſe to you to help your proceedings againſt the Papiſts.

[Mrs *Fitzharris*, and her Witneſſes, were ordered to be heard on *Friday*.

The Bill for reverſing Lord *Ruſſel*'s Attainder [paſſed, with Amendments.]

[*March* 18 and 19 Omitted.]

Wedneſday, March 20.

A Bill, from the Lords, for the regulation of Tryals was read the firſt time.

[Debate.]

Sir *Thomas Lee*.] If I had not once ſeen a Bill of this nature laid on the Table, and paſſed in an afternoon, I ſhould not be againſt letting it lie on the Table. Lord *Clarendon*'s Bill of Baniſhment was paſſed a Month after the

the Impeachment, when it was thought moſt convenient for him; which then I thought of dangerous conſequence. 'Tis my opinion that this Bill be thrown out; notwithſtanding the good Clauſes in it, it may be done for me and my family. When Bills upon the firſt appearance are dangerous, they are uſually thrown out upon the firſt reading. I would have all things in this Parliament of a piece. You thought good for the preſent emergency to part with the *Habeas Corpus* Act for a time, but is this the way to ſecure the Government, to give liberty to the Peers to conſpire with *James* II? I ſhall never think it for the Peace of the Government, if you paſs this Bill, to let the Peers do all they pleaſe with impunity. The end and deſign of the Bill is, that the Peers may have challenges, as the Commons have. The Bill is of no uſe to you—For here is a number of Peers of the laſt Parliament, or ought to be. Perhaps not above eighty temporal Lords, and ſixty ſummoned; ſome may be ſick, or have buſineſs, or may be ſollicited to be abſent: If forty five appear, and twenty are excepted againſt, there can be no Tryal. 'Twas upon this argument before, when the Lords ſent down a Bill of this nature, "that unleſs the Lords were under the common ſafety of others, the King ſitting in their Houſe, and hearing their Debates, they were in danger"—Is this a time to have that Jealouſy, now we are under this happy change? Were it for nothing elſe, pray let us not overturn the whole frame of the Government for the Lords ſake. Every Clauſe, in the Bill, relating to the Commons, is equally beneficial to the Lords. "In Indictments for Treaſon, (the Bill tells us) we ſhall have Counſel," and 'tis for able Juries; is it not as well for the Lords as us? For they muſt be tried in Appeals by common Juries. The Bill is abundantly leſs beneficial to the Commons than the Lords. The Crown you can oblige by intercourſe of Aids, but there is none betwixt the Lords and you. Great purchaſes were made of theſe Honours. Notwithſtanding the dangers the Lords apprehend, the Bill is of dangerous conſequence to the Commons, and for the Honour of the Houſe I would reject it.

Sir

Sir *William Pulteney.*] No man can deny but that the Lords ought to have fair Tryals. Whenever the Crown has a diſpleaſure to a noble Peer, by practices he may be drawn into Treaſon, and a High Steward may be appointed, and ſeven of the ſummoned Lords to try him may take away his life. Will you at this time differ with the Lords? This is a time, when you have a good King, to get good Laws. The Peers were very inſtrumental in bringing about this good change, and they deſire only that their poſterity may be in good condition, and out of danger. Some Clauſes relating to the Commons are ineſtimable, as "that a Juryman ſhall have 20 *l. per ann.* of freehold to try a Commoner;" and, "that Counſel ſhall be allowed in Treaſon, *&c.*" Colonel *Sidney* had not loſt his life, if he had had Counſel allowed him. Had that been four years ago, it might have ſaved the life of many a Perſon. I hope you will take care for the future againſt the ſame danger. A Commoner may except peremptorily againſt thirty five Jurors—I would have a good correſpondence with the Lords.

Sir *William Williams.*] I have a great Honour for the Peers, and as far as with Juſtice I will do it. This Bill is not only dangerous to the Commons, but to the Crown too. There is a little ſprinkling of Holy Water in this Bill. It provides (as the Bill is penned) "that all manner of crimes may be tried by the Peers." Though the Preamble of the Bill tells you of Tryals of "capital Crimes," yet the body of the Bill is "all Tryals"—(*He was in that miſtaken*) All Peers are on their Honour; and you alter the very Conſtitution of the Kingdom. It may ſo fall out that the number of Peers cannot be had, that this Law requires, and ſo there may be a failure of Juſtice. The whole deſign of the Bill is, that there may be a number of Peers, that may judge againſt Law and Right. But can you give any one inſtance, that any Peer, in our memory, ever miſcarried upon the ancient way of Tryal? If we had found any lamentable experience and example of this ancient way of Tryal—but there being none, why ſhould you alter the Law for a bare ſuſpicion

cion only? In *James* II's time, Lord *Brandon* was found guilty by his fellow Commoners, and condemned *: Lord *Delamere* † by his Peers was acquitted. What advantage do we get by this Bill? We would have fair and equal Tryal, and ſhall we, in prejudice of the Commons, give this challenge away? 'Tis almoſt impoſſible to have juſt Tryal this way. The Peers are moſt of a blood, (the ancient Peers) and ſo a Commoner can have no fair Tryal againſt a Peer, and they have already more Privileges than the Commons. You, by this, advance the Peerage againſt the common right of the Commons, and make it neither in the power of the King, nor the Commons, to bring a Peer to Juſtice. The Commons are ſtraitened, and the Crown is ſtraitened. How many men have been undone by *Scandalum magnatum!* Commoners have had 20,000 *l.* verdict againſt them; and a Peer thinks himſelf diſhonoured unleſs the Jury gives what he demands. I would rather provide againſt theſe things. If the Lords will ſet a Limitation to *Scandalum magnatum*; (it may lie twenty years, and they may bring it about) if the Lords will agree that no Words ſhall be ſcandal, but where an action may be brought by a Commoner againſt a Commoner—Suppoſe a Commoner ſay, "He cares for a Peer no more than a dog," though a Peer call me rogue and raſcal—Let the Lords frame a fair Bill, and we will paſs it. If they will have ceremony, we will compliment them, and ſtand bare in their Lobby, and the Painted Chamber, at Conference; but matter of right we ſhall diſpute. Pray lay aſide the Bill. What relates to the Commons that are Grievances already, your Bill may do; and they are put into this Bill for a handle.

Sir *Robert Howard.*] By the conſequence of *Williams*'s diſcourſe, he is for the Bill and againſt it. I think the

*In 1685, "for conſpiring with otherfalſe traytors (*Monmouth, &c.*) to raiſe a Rebellion, depoſe and put to death the late King, *&c.*" of which being found guilty by the proſtitute Juries of theſe times, he received ſentence of Death; but by applying properly made a ſhift to obtain a Pardon; which Sir *John Reref-by* celebrates as a ſignal Act of Grace, becauſe that Lord had formerly been condemned for breaking a boy's neck in his cups, and had been admitted to mercy. *Ralph.*

† Lord *Delamere*'s charge was "for being an Accomplice with *Monmouth*, in his late Rebellion."

Bill

Bill is rather deſcending to us than taking from us. That of *Scandalum magnatum* added to the Bill may be of uſe. The Bill does us no hurt. Methinks Juries of finding the *Scandalum magnatum* at exceſſive damage, and fines with *ſalvo contenemento*, may be remedied, and I am for the Bill.

Mr *Hampden.*] I am not for throwing out the Bill, nor for a ſecond reading of it. Let it lie upon the Table. I hear an inſtance of paſſing Lord *Clarendon*'s Bill of Baniſhment, *&c.* The Houſe was then very thin. All *Clarendon*'s Friends were for paſſing it—A Relation of *Clarendon*'s for no paſſing it was at a diſtance—I am not for throwing it out, nor for a ſecond reading, for I do not know the parts of it. Let it be well conſidered. If you caſt out the Bill, you can receive no Bill of this matter this Seſſion. I would read it a ſecond time in a full Houſe.

Mr *Finch.*] I am for letting the Bill lie upon the Table, and ſo be read in a full Houſe. The objection for throwing it out is, becauſe the Peers have an equal benefit with the Commoners, which is no objection. The Number objected of the Peers, "that they may be ſollicited to ſtay away, *&c.*" they may be ſo to appear too. I would have it lie upon the Table, and have a ſecond reading that we may be fit to ſpeak to it.

The Speaker.] To let the Bill lie upon the Table, and order it no ſecond reading, I never ſaw. The proper Queſtion is, "Whether you will read it a ſecond time."

Sir *Chriſtopher Muſgrave.*] The natural Queſtion is, "Whether you will read it a ſecond time." The reaſon why you let the Bill lie upon the Table, after you have read it, is, you are maſters of the parts of it. In former Parliaments, we were well acquainted with this Bill. I would have a Queſtion that every body may be gratified in. I would adjourn the Debate.

[The Debate was adjourned till *Monday* Fortnight.]

In a Grand Committee on the Revenue.

Sir *William Williams.*] I take the Revenue to be 1,580,000 *l*; out of this certainly I deduct the Hearth-Money, 200,000 *l*: Your immediate Charge then is the

the conſtant Charge of the Crown. If you give the Crown too little, you may add at any time; if once you give too much, you will never have it back again. Therefore I would declare the conſtant Charge of the Crown.

Mr *Sacheverell.*] I agree, that it is neceſſary to conſider the conſtant Charge of the Crown in time of Peace. By the Charge of the Navy and Army in King *James*'s time, we cannot make computation, nor from the calculation made from King *Charles*'s, when the Expence was extravagant—Rather then compute the moderate Charge in King *Charles*'s time. I would know whether, in the years 1673, 74, 75, 76, the Cuſtoms did not ariſe to as much as in all the ſevere way of management? 'Tis neceſſary that you agree what the common Expence of the Government is, under Heads, as it was drawn up in the time of Sir *William Coventry*; the Penſions were never heard of till Mr *Guy*'s time. Expences are much leſſened, and the Revenue advanced. Bating the Navy and the Army, I would ſee if the conſtant Charge is not above 400,000 *l. per ann.*—As if 600,000*l.* for an Army for ever—To find all the Navy out of repair, and coſt as much as when in ſervice, I cannot agree. Becauſe the Army and Navy cannot but be maintained, therefore I am of opinion, that the Navy and Army are not to be conſidered in the conſtant Charge. I doubt not but we ſhall give what is neceſſary; but I would conſider the Navy and Army as an extraordinary Charge.

Mr *Guy.*] I hear my name mentioned upon the head of great Sums, though under the denomination of Secret Service—The reaſon was, to eaſe the charge of the Great Seal: But, be it what it will, I am ready to give account, to a penny, of what I received.

Mr *Garroway.*] I am ready to ſerve you to come to an end. I agree not to the Medium; but if you will come to make a Revenue for the King, we cannot ſay the Revenue will ſtand to 1000, or 10,000 *l.* there being ſeveral variations of the Cuſtoms in ſeveral Years. We are now providing for a War, and ſomething of the Revenue may be applicable to it. I except not againſt the accounts of the ſeveral particulars of the ſmall

branches of the Revenue, but I hope the King will contribute to the War as well as we; it is for his ſafety. Shall we be worſe huſbands now, than in the late Kings reigns, in all the extravagances of expences? Compute the neceſſary Charge of the Crown, and let the remainder be applied to the Charge of the War.

Col. *Birch.*] I would refer all the Charge of the Government, and that of the Houſhold, to the Privy Council, except that of the Navy, the Family that riſes and falls upon occaſion. This being preſented to the Houſe, you will immediately ſee the Charge; elſe you will be long in your Reſolutions.

Mr *Harbord.*] Here have been ſeveral Motions. You may be ſure, that the Money you give will not be ſpent in debauchery and lewdneſs, but employed as you would have it. Either to make particular proviſion, *&c.* or in groſs, I am indifferent. In another thing, you muſt give the King your helping hand, or elſe you do nothing: There is a farm given out of the Cuſtoms to the Dutcheſs of *Portſmouth*'s children, which is the farmage of Coals, and that is in Papiſts hands.

Sir *Henry Capel.*] You are pretty near a Queſtion. The eſtabliſhment of the Government is agreed on all hands: There remains nothing but proviſion for the Ordnance, Army, and Fleet. Though in Peace you'll allow for a ſummer-guard, and in winter for the ſafety of trade: The Plantations, *Indies*, (and they had more men of war there than we here) theſe are to be conſidered, in time of Peace, as part of the Government in Peace. I do not underſtand, that what is eſtabliſhed for the Fleet and Ordnance is for the ſum total of the extraordinary Charge. The Queſtion is only now, of having an account brought you. You will have no head of it of Secret Service to trouble you. There muſt be an Eſtabliſhment for the Queen, and Princeſs *Anne*, who has deſerved very well of the Nation.

Sir *Thomas Clarges.*] What Charge is for the Fleet in time of Peace, muſt go into that in time of War. There is a Charge of the Ordnance of 80,000 *l. per ann.* for Yatchs and Ketches, *&c.* The faireſt way will be, to agree

agree a certain ſum for the Revenue, and not meddle with the diſtribution of it, and ſo refer it to the King; who, if it be too little, will inform you by his Miniſters, if it be wanting, and you may ſupply it.

Sir *Thomas Lee.*] I know not how the condition of the War may leave you. I love not to pleaſe myſelf with the names of a Navy and Army—But not ſo properly till we ſee how things ſtand abroad; how Alliances are concluded: But I think the Debate leads you to conſider of *Ireland*, and to ſupport the Charge of this year's War, and to know what of the Revenue will do. What the conſtancy of the Revenue muſt be, men are tender, but will be willing to ſupply the preſent emergency.

Sir *Chriſtopher Muſgrave.*] 'Tis abſolutely neceſſary, when you conſider the Revenue, that you conſider the ſummer and winter-guard, and likewiſe the Ordnance and Garriſons; and all theſe muſt be in your eye. As for the Expences of the Civil Government, you have as much before you as is deſired. You muſt likewiſe conſider the Queen, and the Princeſs of *Denmark*; and when that is done, I would not be pinching to ſupport the Government at eaſe. I know we are under great neceſſities for raiſing Money, and for the Charge of the Ordnance, I can do it to a farthing. I believe *England* can never be without ſome ſtanding force. I deal plainly with you.

Mr *Sacheverell.*] I would gladly ſettle the Revenue; but I would know, when you have voted the Sum for the Revenue, how you can deduct any thing. Therefore I would have had Particulars.

Col. *Birch.*] I never was ſo puzzled in a Queſtion, in my life, as in this. We are eſtabliſhing a Revenue, as in time of Peace; pray God we may ſee it! I underſtand the Debate to be this; they that know the Revenue, to bring in what Particulars there are for the Government. I really would vote 1,200,000*l*; and I would have the World know that the King has ſuch a Revenue; and the Privy Council will tell you what is for the

Civil Government; elſe it is in effect to ſettle a Revenue of 400,000 *l. per ann.* only.

Reſolved, Nem. con. That it is the opinion of this Committee, that there be a Revenue of 1,200,000 *l. per ann.* ſettled upon their Majeſties, for the conſtant neceſſary Charge of ſupporting the Crown [in time of Peace.]

[Agreed to by the Houſe.]

[*March* 20 * Omitted.]

Friday, March 21.

Mrs *Fitzharris* at the Bar.] When Mr *Fitzharris* brought home the Libel, he ſhowed it to me. I aſked him the deſign of it. He told me, "The King had employed him to write it, and to convey it into Proteſtants houſes, and the pockets of the leading men of the Houſes of Lords and Commons, who oppoſed the Duke of *York*'s and the King's intereſt; as the Earls of *Bedford*, *Eſſex*, and *Shafteſbury*." The King told her huſband, "He would make him greater than the Duke of *Albemarle*. He brought the King into the Throne, but *Fitzharris* would keep him in it."—The King ſaid, "He ſhould die, if there were no more men in the world, for diſcovering the contrivers of the deſign."——The King and the Dutcheſs of *Portſmouth* proſecuted him.—I was paid 10 *l.* a week, whilſt I was in the Meſſenger's hands: I know not who paid it, only a man came and aſked for Madam *Fitzharris*, and I received it about a fortnight betwixt my huſband's condemnation and his death. I was importuned to perſuade him to lay the Libel to the Proteſtants charge. I was perſuaded by Mr *Seymour* and Sir *Lionel Jenkins*. I was threatened by Mr *Graham*, becauſe I would ſay nothing againſt *Stephen College*. My huſband deſired me to do juſtice to thoſe that were like to ſuffer in the City.—I abſented myſelf privately for three quarters of a year, and hearing that Lord *Arran* was to go Lord Lieutenant of *Ireland*, I would have addreſſed myſelf to him, but Sir *Edward Fitzharris* told me, Lord *Arran* would not ſee me without the King's leave. Sir *Stephen Fox* took my children from me, and kept them, and paid me my Penſion no more; and told me, I muſt have my children ſent me again. By Dr *Hawkins*'s † importunity, my huſband accuſed the two Sheriffs of *London*, and Sir *Robert Clayton*, and he promiſed him he ſhould have a Pardon. *Seymour* and *Jenkins* promiſed me to ſpeak to the King; but

* This day an eſtimate was given in of 714,117 *l.* 6 *s.* 4 *d.* for the Pay of the Forces, *&c.* being 22,330 men, to be employed in the Reduction of *Ireland*.

† Chaplain of the *Tower*.

they

they did it to get me away. When I came to the *Tower*, I found Dr *Hawkins* with my huſband, who told me, He was ſure he ſhould have a Pardon. I ſaid, "Pray let not the Doctor delude you."—The Doctor told him, "There was no way to be ſaved but by accuſing Lord *Shafteſbury*, and the reſt of the Lords, if he would but ſay, that the Proteſtants employed him."—I met *Seymour* and *Jenkins*, who bid me not be frighted at the taking away my Penſion; I ſhould be allowed 3*l.* 10*s.* out of my eſtate. I ſaid, that would not maintain us.—*Jenkins* ſaid, "I was againſt the King's intereſt, and too violent a Proteſtant." I replied, "I know nothing of the Proteſtants, and ſhould be a mad woman to ſay what I knew not."—I was brought ſometimes to *Jenkins*'s lodgings, ſometimes to *Seymour*'s, and they retired with me into a room. They firſt promiſed me my huſband's life, and that he ſhould have honour and money; and what I would aſk after my huſband's death.

Sir *Joſeph Tredenham.*] She ſays; ſhe was ſollicited by perſons, whom ſhe has named. To accuſe perſons, and to examine, are two things. I would know, whether againſt any particular perſons?

Mr *Whitaker*, the Attorney, at the Bar.] After the *Oxford* Parliament, that *Fitzharris* was to be tried, it was deſired by ſeveral perſons, that he ſhould not be tried in the *King's-Bench*, but, as he was deſigned, by the Impeachment at *Oxford*. By means of the Warder's wife, he ſent me a ſheet of paper of the matters he could ſay, *viz.* "That he was employed by the King, the Dutcheſs of *Portſmouth*, and Mrs *Wall*, to diſperſe the Libel; and that he had 200 *l.* paid him by the King, at the Dutcheſs of *Portſmouth*'s chamber." I did what I could to hinder the Tryal. I drew him his Plea, "That he was the ſame *Fitzharris* who was impeached in Parliament."—He was put upon his Tryal: Some were excepted againſt, as not Freeholders, by the King's Counſel; and ſome excepted againſt peremptorily. What *Fitzharris* would have had, was to let the Jury know what had been done with him. After the Lords *Howard* and *Shafteſbury* were committed, I was ſent for by a Warrant from the Secretary. I inſiſted upon the Rights of the City, and was ſome time at my Lord Mayor's.—I prayed, that I might go to a common Priſon, but I was ſent to the *Tower*, and kept with bread and water, till I paid 40*s.* a week to the Warder, and 65*l.* to the Lieutenant. Afterwards I did petition the Commiſſion of *Oyer* and *Terminer*, and was delivered by *Habeas Corpus*; and I ſued Sir *Lionel Jenkins* for falſe impriſonment. During this, my wife took care of my Papers.—I employed Sir *Robert Killigrew* to procure *Fitzharris*'s Pardon.—My wife delivered him the Papers,

who delivered them to the King, and the King was very joyful that he had them.

Sir *Robert Killegrew*, at the Bar.] I had ſeveral Papers delivered me by Mr *Whitaker*. By command of the King, I made twelve journeys betwixt *London*, *Hampton-Court*, and *Windſor*.—I had hopes of getting *Fitzharris*'s Pardon, if I got the Papers—They were very reflective things—Lord *Halifax*, *Jenkins*, and Lord *Rocheſter*, read the Papers, and would not truſt me with them. I ſealed them up, when I delivered them to Lord *Halifax*, and they opened them, and ſealed them with Lord *Halifax*'s ſeal, at *Whitehall*. At the Secretary's Office, the Lords delivered them to me, and I to the King, to whom I gave them. He told me, it was well done, and gave me his hand to kiſs.

Mr *White*, a Meſſenger of the Council, at the Bar.] Mrs *Fitzharris*'s maid, and three of her children, were kept at my houſe three weeks. Mr *Graham*, Mr *Burton*, and another came to her.—I heard ſhe had 3 *l.* a week. I had orders to keep her cloſe priſoner to all but them. They came to her once a week. They were with her above an hour in private. I was paid by the King. Sir *Lionel Jenkins* was paid by the Treaſury, for keeping her and her children.—She had 40 *s.* a week, when ſhe was a week out of my cuſtody.—Mr *Squibb* paid the money, and I knew ſhe lived upon it.

Mr *Whitaker*.] The ſubſtance of his Papers was, "That he was employed by the King, and the Dutcheſs of *Portſmouth*, that thoſe Libels ſhould be put into the perſons pockets mentioned." I remember one of the perſons, *Seymour*. Mr *Bethel*, poſſibly, can give you information. I believe the Papers were *Fitzharris*'s hand.

Mrs *Fitzharris*.] Mr *Graham* complimented me firſt, "That my lodgings were not good." I ſaid, "They were good enough for a Priſoner."—Then he told me, "I muſt prepare to go to *College*'s Tryal." I ſaid, "I could not ſwear againſt people I knew nothing of." He ſaid, "I was againſt the King's intereſt." I was ſent for, or ſent to, every day, to perſuade me, that Proteſtants had employed my huſband, and I ſhould be taken care of, and my children; and that the King would be a father to my children, and a huſband to myſelf.

Sir *Robert Clayton*.] I would have Mr *Bethel* called in.

Sir *William Williams*.] I would have him examined, to what he knows in relation of *Fitzharris*, when he was Priſoner.

Mr *Bethel**, at the Bar.] I did attend Mr *Fitzharris*, at his inſtance, in *Newgate*. He ſaid, "The King would hang him,

* Formerly Sheriff of *London*.

becauſe

becauſe he knew more of the Popiſh Plot than any man." He would not tell me Particulars, but "that he would inform the Parliament, on whom he relied for his ſafety."

Mr *Harbord.*] I obſerve, that, in Lord *Ruſſel*'s Tryal, they would not have Freeholders on the Jury, for fear they ſhould ſave him; and they would have Freeholders on this man's Jury, that they might hang him.

The farther Examination was adjourned till *Thurſday.*

Mr *Howe.*] Had I not apprehended it for the ſervice of the King and Kingdom, I would not trouble the Houſe upon the Declaration ſpread about againſt the King and Queen for King *James.* A Gentleman is ready to prove, that one ſaid to him, "That King *William* would abdicate the Government in ſix months time, and that King *James* would be at *Whitehall.*" One *Bowtell* heard Captain *Motley* ſay it.

[Mr *Bowtell* was called in.]

Mr *Bowtell.*] I heard Captain *Motley* ſay, "That in three weeks time King *James* would be poſſeſſed of *Whitehall*; and that King *William* would abdicate in three months." He ſaid it at a Coffee-houſe in *Buckingham-Court.* The woman of the houſe heard all the words. He is a diſbanded Captain. I know not what Religion he is of. He is there every day; and he ſwore, "Damn him, he would break my head, if I did not believe him."

Sir *John Guiſe.*] This *Motley* was in a ſeditious Regiment, and commanded in the *Tower* when Lord *Lucas* took poſſeſſion of it.

Ordered, That Captain *Motley* be ſent for in Cuſtody of the Serjeant, *&c.*

In a Grand Committee on the Supply for *Ireland.*

[Mr *Hampden* in the Chair.]

Sir *William Williams.*] All are agreed for a Supply; 'tis before you, the Sum and the Time. I need not go into topics of the neceſſity of it, as it has been done already by Mr *Eyre.* You have had Computations; and you may conjecture, probably, what will do. 'Tis your preſent conſideration, whether you will give an

Aid for ſix months, or twelve; which I ſee is no great difference—All of us have confidence in the King, as a good huſband. I would vote the Sum for twelve months. If the King can ſpare any of the Money, in reducing it, or ſcattering it amongſt them, [he will]—But I would have it from three months to three months, not exceeding 600,000 *l.* We may add when we pleaſe.

Mr *Hampden.*] The Sum computed is 640,000 *l.*

Sir *Robert Howard.*] I would not have you make good huſbandry, at the expence of our own hazard. 'Tis ſaid, "You may raiſe it at ſo much a Quarter." You muſt conſider, you cannot raiſe this but by annual things. There is 600,000 *l.* for the *Dutch.* The next you are to raiſe, muſt be ſo much a year for ſo many years. *Ireland* is not able, in the leaſt manner, to afford ſubſiſtence. Thoſe who are up, and aſſiſt you, muſt have Pay from you. He that has done ſo much for us, will not turn upon us, to take any thing from us unreaſonably.

Mr *Garroway.*] I would know upon what we are to lay the Money, before we think of the way of raiſing it, leſt we ſhould have recourſe to Land-Tax at laſt. I move, to raiſe 310,000 *l.* for ſix months, and ſo from ſix months to ſix months.

Sir *Chriſtopher Muſgrave.*] Not one point of the Eſtimate is diſputed; but ſome part of the Charge cannot come in the reſt of the ſix months; all the reſt to be deducted from the reſt of the ſix months. But I am for the Queſtion of the whole Sum.

Mr *Harbord.*] This 300,000 *l.* will not carry your Forces into *Ireland.* Perſons have been ſent into the North of *Ireland*, and there are not Oats for your horſes, only Graſs; they muſt be had out of *Cheſhire*, *Wales*, and *Lancaſhire*—Money muſt be ſpent in Bread, Barley, and Beef—What with the Levy-Money and Arms, you will not have one ſhilling to keep them the reſt of the time. They have Commiſſions in *Ireland* for 30,000 men; and as ſoon as the King ſhall land theſe men, all muſt be ſupported at the King's charge. This way will be fatal to the King and yourſelves.

Mr

Mr *Hampden*, jun.] The charge of one year is partly agreed upon; and I think it muſt be for a year, for this reaſon: 'Tis more than an *Iriſh* War; I think 'tis a *French* War. The *French* King has carried King *James* into *Ireland*; and there is no way poſſible to bear that great Force, but by ſecuring *Ireland*. You muſt give the King ſuch a fund of Credit, as that foreign Proteſtants may come into Alliance with him. Always, the computation of *Germany* is for a Year; if for half a Year only, no body will ever join with you. If for common defence, do it for a Year, that they may join with you. Therefore I move for 700,000 *l.*

Sir *Joſeph Tredenham.*] If you had a proſpect to end the War in a Year, I would give it for a Year. I fear it will be a longer time; and, let it coſt what it will coſt, and for as long a time as it will, it muſt be maintained. You are told of "Oats, and other things;" but the allowance to the Soldiers is what they ſubſiſt upon, and their Pay diſcharges that. To vote, "That you will ſupply the War from time to time," gives it the greateſt reputation imaginable—And I would maintain this War with the greateſt eaſe to the People, that you may have their hands and their hearts to aſſiſt you. I ſpeak not this to ſtop your Forces—But there were formerly Reimburſements out of confiſcated Eſtates, upon Money lent here, upon thoſe that have brought us into this neceſſity. For ſix months I would give fully; but, I hope, that Nation may maintain the War after that time.

Sir *Robert Howard.*] What *Garroway* ſaid is rational. We are all of a mind for the whole, but the difference is the proviſion for ſix months, *&c.*—We are, in effect, paying a Land-Tax to our advantage in the ſale of Corn—'Tis true, a great deal of Money is to be raiſed. —The Motion of not exceeding 700,000 *l.* does not hinder you from the manner of raiſing it. The next thing will be, the way of raiſing it.

Mr *Hampden*, jun.] I fear the War will not be thoroughly begun in ſix months. Do you think the *French* King

King will lay aſide his fundamental policy, to keep you in continual work, as he does in all other places?

Col. *Birch.*] What Sum ſoever you put, is alike to me. We are to confederate; and will that give your Alliance any encouragement? Will this be an encouragement to your friends, (I know not how many they are) to tell them but of ſix months proviſion for the War? The buſineſs cannot be well begun in ſix months. I am far from thinking that ſix months will make an end. You have *Ireland*, and the *French*, upon you. This will be an encouragement to your enemies.

Mr *Garroway.*] You have now a Land-Tax, and you have not appropriated one penny to the uſe you intended it yet; and if you take not up Money upon Intereſt, I know not where you will have it. This is not all the Charge; it will coſt you more.

Mr *Sacheverell.*] I have attended the Debate as well as I could. I take it, that the Gentleman that moved for ſix months, would raiſe men, and ſend them into *Ireland*; and, if there is farther occaſion, would comply with the ſame Sum to go on, becauſe he thinks that neceſſary at the firſt beginning of the War, but not afterwards. Thoſe who ſtand up for a Previous Queſtion, I would know whether they are not againſt the Supply—I think theſe men cannot be ſent over till the latter end of the year, and keep the ſea in the mean time. I would, therefore, vote the ſix months Supply, and the reſt I ſhall do as I think fit.

[The Houſe agreed to 750,000 *l.* &c.]

[*March* 23 omitted.]

Monday, March 25, 1689.

Mr *Hampden* delivered a Letter, &c. from his Majeſty, to acquaint the Houſe with his readineſs to paſs an Act of general Oblivion and Indemnity, with ſuch Exceptions only as both Houſes ſhould think fit for the vindication of public juſtice, &c. for the future.

Sir *Chriſtopher Muſgrave.*] This Meſſage from the King is very gracious, and I think the Houſe ſhould conſider

conſider it as ſoon as poſſible; and we ought to return his Majeſty Thanks for his gracious favour.

Sir *Joſeph Tredenham.*] I would expreſs that gratitude to the King with all the ſolemnity imaginable.

Sir *Henry Goodrick.*] I would have your Thanks returned in the moſt ſolemn manner, in writing, and the Speaker to preſent it.

Mr *Harbord.*] You have received a Meſſage from the King, *&c.* and it is neceſſary there ſhould be an Act of Oblivion; but I hope you will take care that Poſterity ſhall not fall under the ſame calamities we have done, for the future. If there be not ſome examples made of perſons who have overturned your Laws, you will never want thoſe to overturn your Government. Therefore, to prevent for the future, make ſome examples of the great offenders.

Mr *Howe.*] This does not ſurprize me, if I look upon the King's carriage; a King ſo gracious as to admit ſuch perſons into his preſence, that have been againſt him. I hope their crimes are forgotten, and that we ſhall forget them.

Sir *Henry Capel.*] You are upon a method of returning the King Thanks, and you are told of a Precedent of the Convention, [*by Mr* John Gray.] 'Tis ſaid, "you need not look into Books for it, becauſe that was an irregular time." But, in that Parliament, were men of great underſtanding and worth, and you cannot do better than ſearch thoſe Precedents out of the Journals. As to what has been moved, of a Committee of the whole Houſe, to take the Meſſage, Paragraph by Paragraph, and debate it, when will there be an end? The King deſires diſpatch, and where will be the end of a Committee of the whole Houſe? A Grand Committee will be dilatory; therefore I move for a ſpecial Committee to draw up the Thanks, *&c.*

Mr *Howe.*] We owe much of our misfortunes to that Convention; therefore I would not have that made a Precedent.

Sir *Joſeph Tredenham.*] I am of opinion, that was a happy Parliament. I remember the perplexity the Nation

tion was in, and the ſettlement they made. I would proceed according to that method, and you may rectify any errors of that Parliament by viewing the Journal. I would go into a Committee of the whole Houſe now, and accelerate the Anſwer. The Afternoon is not ſo happy in our Proceedings as when done ſedately in the Morning.

Mr *Garroway.*] I would have ſome good effect of this Debate, which may be eaſily obtained, if you will appoint a Committee to ſearch the Journals, and they make you a Report of what they find, and then you may go into a Grand Committee.

The Thanks of the Houſe were voted to his Majeſty, and a Committee was appointed to draw up an Addreſs.

The Information againſt Captain *Motley* was reſumed; [and it appeared, by the Evidence, that Mr *Bowtell* was in drink, that he gave the Captain ill words, *&c.*]

Col. *Birch.*] I think you cannot do leſs than diſcharge the perſon accuſed, Captain *Motley*, and put *Bowtell* in his place, be he Papiſt or Proteſtant.

Mr *Hampden.*] This is the firſt thing of this kind brought before the Houſe, that I remember. I ſee no reaſon why you ſhould not puniſh this man; you have all the Evidence againſt the perſon that gave the Information, that it is poſſible. 'Tis his Evidence to which he appeals, and they deny any ſuch thing. If you ſend them to the Lords, all Witneſſes there are upon Oath. 'Tis all the reaſon all ſhould be called in, and the Gentleman diſcharged, and the other kept in cuſtody.

Sir *William Williams.*] I would have this falſe, malicious accuſation be puniſhed. To ſend them to the Lords to be ſworn would be of dangerous conſequence, and a leſſening of your authority, but for not telling truth, he may be under the cenſure of this Houſe. I would call them in, as moved.

Mr *Howe.*] I am ſomething concerned in this buſineſs; it partly reflects upon me. I was informed that ſuch words were ſpoken, the man writes them down, and upon ſo general a complaint the limbs of ſo many honeſt Gentlemen we ſee about the ſtreets, were placed there upon leſs Evidence. There was a Gentleman, Sir *Pa-*

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tience Ward, convicted of Perjury, for ſaying he did not hear Alderman *Pilkington* ſpeak ſome words. I would have the perſon aſk pardon of the Houſe only. But, I believe, there is more in it, for people take great liberty in Coffee-Houſes and Churches, and this looks, as if we were afraid to puniſh. I ſay, there are people in churches that pray for King *James*, and that is Treaſon [*Being called to name them*] Lord *Wiltſhire* knows, that lately in the Dioceſe of *Wincheſter*, they did pray for King *James*, and the Biſhop was admoniſhed of it in the Houſe of Lords, and he was ſent into his Dioceſe.

Another ſaid,] Before the Biſhop's Letter was ſent down, they did pray for King *James*, but ſince, they have prayed for King *William* and Queen *Mary*, and have never prayed for King *James* ſince they were proclaimed.

Sir *John Guiſe*.] If it be for the ſervice of the Houſe, they may be named, *&c.* but pray let every Member name whom he knows out of his country.

Mr *Hampden*.] I would have Gentlemen conſider the laſt thing you were upon, which was the Indemnity: But this does not put our minds in a frame to conſider that, but what is meant by calling out to name them? It muſt mean, to clear them from imputation. I would have perſons cleared or puniſhed. If you judge this a crime, a great many will come under it; if named, you will do nothing in it in the Act of Indemnity. If it be once granted, that it is in the nature of a crime, every Gentleman muſt give you his knowledge. If you will enquire into it, as a crime, I believe you will have more informations than you can conſider of; therefore lay it aſide.

The Speaker.] I hope, Gentlemen for the future will take care how they bring you informations out of Coffee-Houſes; eſpecially what reflects upon the whole Church of *England*; and what they inform, to make good.

Sir *Thomas Lee*.] I ſtand up for the honour of the Houſe. Every day we have informations of ſmall weight. If Gentlemen complain, it ought to be true and right.—This will make people not come here but to revenge their own quarrels. You can do no leſs than commit this perſon.

Col.

Col. *Birch.*] You ſee the effects of taking men into cuſtody here; you diſcharge one, and commit another. I would have the Commitment entered, "for giving untrue information to the Houſe."

Capt. *Motley* was diſcharged, and *Bowtell* was committed to cuſtody, *viz.* the Houſe having information of malicious words in relation to the Government, and it appearing, upon examination, that it was a malicious information, *&c.*"

In a Grand Committee. On the Coronation Oath.

Mr *Hampden*, jun.] I know not what Gentlemen may mean by the Old Coronation Oath. Some may mean the laſt Coronation Oath, as formerly. The Oath ſtands thus: The Committee looked into the old Precedents for the original of this Oath. They looked into the Statute Book, and other Law Books, but it is in none but the *Roman* Pontifical. Every body knows how the Clergy have uſurped to themſelves authorities, as of marriages, divorces, adulteries, probate of wills, *&c.* We find by the ceremonial and ritual in other Courts, as well as in *England*, they are not found, but in the ceremonials and rituals of the *Roman* Church. In *Brackton* only I find it, who informs, "that the King did ſwear in the name of the Lord *Jeſus Chriſt*, to maintain, *&c.*" (*and reads the reſt at large.*) It was *Canutus* the *Dane*, *&c.* The Oaths of *E.* III. *H.* IV. *E.* VI. as if a woman ſhould be married, and the man make no promiſe. There is an allegiance ſworn by the ſubject, and, by Law, no Oath by the King.

Sir *Thomas Clarges.*] I move for an addition to the Oath, "that to the utmoſt of his power he will maintain, *&c.* the Proteſtant Religion, eſtabliſhed by Law."

Mr *Howe.*] If there was any doubt that our Religion was not eſtabliſhed by Law, I would be for it. I think this is in oppoſition to Popery, but not that the King ſhall defend no part of the Proteſtant Religion, but what is eſtabliſhed by Law.

Mr *Hampden*, jun.] I can add ſomething more, than what I have ſaid in matter of fact. In the ancient Oaths were the Laws of *Edward* the Confeſſor. They were Capitularies, of which ſome are expired —'Tis not ſaid, "according to the Laws in being." By this, every Caſuiſt

ſuiſt will tell the King, he is obliged, in the ſtricteſt ſenſe, never to alter them. That is always left to the Legiſlators to alter them—As to tryals and judgments not according to the Laws in being, this is an Oath in time to make it Perjury—You mean, "according to Laws that ſhall be made." As to Religion, in ſome things, the King, ſwears poſitively to the true profeſſion of the Goſpel, that is, the Chriſtian Religion, no latitude in that, and then comes to the Chriſtian Religion as it is againſt Popery; and this is the ſtreſs of all your Oath. Proteſtant is looked upon as a word honourable; and, not only the word, but the thing, to the laſt drop of blood. It is every body's endeavour to keep up the Reformation, and avoid returning into Popery. As to the Doctrine, it is ſuitable to God's word, and therefore in that matter to leave the King no ſort of latitude. But, as to Diſcipline, many Acts have been made to alter it: I ſay nothing to oppoſe it, but I ſpeak to that which makes the thing unſafe—That the King maintain the Church, as they may have all protection from the King, he governing according to Law, and they doing according to Law; both the higher and lower degree of the Clergy, demeaning themſelves as they ought, may be protected.

Mr *Garroway*.] You have a great work upon your hands, upon which our future happineſs muſt depend. You muſt conſider what it is the King can, and what is fit for him to take. I am for "the National Church;" if you tie it up ſtrictly "according to Law," you do not know whether the King be free to grant you what you require. I would have the Church-doors made wider, and I think it might eaſily be done. In order to that, I move, "That the King, in the Oath, ſwear to maintain the Proteſtant Religion, as it is, or ſhall be, eſtabliſhed by Law."

Sir *Joſeph Tredenham*.] Whenever a Bill of Comprehenſion ſhall be brought in for all our ſafeties, I ſhall be for it. To put into the Oath "by Law eſtabliſhed," is a tautology, and hardly good ſenſe, being already done.—You are told, "all ſorts of opinions are to be governed by the Law of God;" are not all ſorts that ever have been,

or

or are like to be, pretenders to it? Look on the Proteſtation of *Augſbourg*; there is not ſuch a correſpondence as people may imagine. As to the word "reformed," all the ſects pretend to be ſo.—Then "as by Law eſtabliſhed," it is ſaid, relates to Religion—Can there be any thing altered relating to Religion? The body of Religion is the Doctrine, and I ſhall never vary from it, and I hope no body here ever will. What do you call "Law?" It is whatever ſhall be done by Act of Parliament. If you can alter the Civil Government, you have the ſame power relating to the Diſcipline of the Church. Though this Oath is only of King *Charles* I, yet compare that Oath with all from *Magna Charta*, and they differ in few circumſtances—Under the general word, all ſects may ſhelter themſelves. They may tell you of ſome points they embrace, and are erroneous in the reſt, and ſay, "you are to maintain us, and all that call themſelves Chriſtians."

Sir *Thomas Littleton.*] I am as much for the Religion by Law eſtabliſhed, as any man. I have not heard any reaſon yet, why the words, "as ſhall be eſtabliſhed by Law," may not be in the Oath. The Religion of the Church of *England*, poſſibly, is eſtabliſhed as no other Religion is, by Law, and we have found it changed ſince the Reformation. Every minute ceremony is eſtabliſhed by Act of Parliament, becauſe they would not leave it to the Church to return us to our former errors again. You have added, nor any other, "but by Act of Parliament."—The King has an inclination to open the doors of the Church; what harm then is there in thoſe words "as ſhall be eſtabliſhed by Law?" Formerly, it was no great matter what Coronation Oath you had; but this King may ſay, "I do not underſtand what is "by Law." And if we ſay, "by Act of Parliament ſhall be", he may ſay, "he never intended to bind you up." Therefore, I would have it, "as ſhall be eſtabliſhed by Law."

Mr *Ettrick.*] If I thought this would bind up the Legiſlative Power, I ſhould be againſt it. I would not have it extend to the eſſential part of Religion, but to ceremonies only. As to the word "ſhall be"—I doubt there is

ſomething

ſomething more in the Queſtion; ſeveral perſons call themſelves of the reformed Religion, as Quakers, Anabaptiſts, *&c.*

Mr *Coningsby**.] I offer you theſe words, "the Doctrine of the Proteſtant Religion eſtabliſhed by Law."

Mr *Hampden*, jun.] The Proteſtants on all ſides are like to have War; but this Coronation Oath is the very touch-ſtone and ſymbol of your Government. It is moved, that the words to be put in be "eſtabliſhed, or ſhall be eſtabliſhed, by Law." If the Doctrine be eſtabliſhed by Law, it may be overthrown by Law again. I hope it is on a better foundation than Men can make by Law. It is by the Law of God, but as for the ceremonies, undoubtedly they are by the Law of *England*. Parliaments have changed many things in the Diſcipline of the Church. It is the intention of every body, I believe, to keep up the Church and the Hierarchy of *England*, and I would diſtinguiſh betwixt the Doctrine and Diſcipline. I move, that "according to the Laws for the time being" may be inſerted in the Oath, *&c.*

Major *Wildman*.] I am as ready to ſubmit to the Church, as any Man. I ſecond the Motion, that you will add words that may be reſtrained to the Doctrine eſtabliſhed by God, and *Jeſus Chriſt*, that the profeſſion of it may be by the Laws of the Land, and when the King is to ſwear to the Doctrine eſtabliſhed by Law, he ſwears to his Power only, and no danger of Perjury in it; but whether he ſwears to all as it is now eſtabliſhed, conſider whether it is ſeaſonable, ſome Comprehenſion or Toleration being intended, and before theſe Acts are made, to ſwear ſo generally. Conſider, the next day after the King has taken this Oath, who ſhall excuſe him from his Oath, before the Houſe has agreed any alteration? Suppoſe the Parliament be diſſolved by the hand

* Paymaſter General of the Army, in conjunction with Mr *Fox*. He attended King *William* in *Ireland* in the campaign of 1690, who, on leaving the Kingdom, appointed him, and Lord *Sidney*, Lords Juſtices. In 1691, he was created Ld *Coningſby*, of *Ireland*, and in 1704, was appointed, by Queen *Anne*, Vice-Treaſurer, and Pay-maſter of the Forces here. In 1716, he was created by King *George* I. a Baron, and in 1719, an Earl of *Great Britain*, and died in 1729. He was father of the late Counteſs.

of God, or any other Act, ſhall the King, by his Oath, be bound to preſs all the ceremonies?

Sir *Thomas Lee.*] I think a Declaration of our Right is ſufficient, and a ſeaſonable time to take any Laws away, but not to let the King diſpenſe with them, and they muſt be obſerved whilſt the Laws are in being. I think no man has ſpoken againſt the addition, but ſome for that addition of "ſuch as are, or ſhall be, *&c.*" Many will be for the firſt with the addition, but againſt it without the addition. If it be meant no alteration, "as by Law eſtabliſhed, *&c.*" nobody will be for that; but if it be, "what is, *&c.* or ſhall be by Law eſtabliſhed," every body will be for it.

Mr *Finch.*] I have attended the Debate, and the words moved for, *viz.* "eſtabliſhed by Law, or that ſhall be, *&c.*" I have obſerved, that the reaſons do not well agree. It is needleſs, becauſe, the words being implied, you need not add them. But I think it neceſſary, that the World may know we mean the eſtabliſhed Proteſtant Religion. You were told, it was implied, and may be ſworn to Laws not fit to be put in execution—To ſhow that, by theſe words, we underſtand the reformed Proteſtant Religion eſtabliſhed by Law, I am againſt the words "ſhall be eſtabliſhed, *&c.*" No man can have any colour but that ſtill a liberty is to conſent to any other Laws to preſerve Religion, and thoſe are, according to his Oath, eſtabliſhed by Law. They ſignify no more than to be eſtabliſhed, but I am againſt the words of "Doctrine that ſhall be eſtabliſhed, *&c.*" Thoſe words, I believe, will not be received here. The corruptions of the Church of *Rome* were aboliſhed by Law. The Proteſtant Religion, is a large word of great comprehenſion, becauſe it looks as if ſome other Proteſtant Religion were fit to be eſtabliſhed, inſtead of that we have: I ſuppoſe the Doctrine is never to be ſhaken, and the truth of the Chriſtian Religion. No man of the Church of *England* but will be ready to comply with the weak conſcience of any profeſſor of the Proteſtant Religion. And no man, from the Biſhop downwards, is againſt any comprehenſion or eaſe to tender conſciences; but this is as if there were another Proteſtant Religion to be eſtabliſhed by Law; as if there

was

was intended a new Doctrine, as well as a new Diſcipline. I would have you retain the firſt, and leave the latter.

Col. *Birch.*] In what the learned Gentleman has ſaid, I go a great way with him, and when I do not, I ſhall ſhow the difference. There has been no new Doctrine named, and then moſt part of his objections are over. When I ſat in that Chair, in a former Parliament, to ſhow you how far the Diſſenters were for the Church of *England*, all, except the Quakers, did generally agree to the Church of *England*; and if that Houſe had ſat, they would have been comprehended. You are told, "it will as well relate to Diſcipline as Doctrine," and I think it does. When people are full of expectation, that we ſhould ſhut the doors of the Church to all kind of relaxation to ſuch as hope for ſome!—It is ſaid by an Honourable Perſon, he would not have the Church troubled—St *Paul* ſays, *he knows but in part*, and we are about to make ourſelves infallible. Let me remind you what ill ſucceſs we have had with the *Scots*, (which put them in Rebellion) when Archbp *Laud* would not have a hair bated of the Diſcipline of the Church; and what followed upon it? That brought on the War in *England*, and was moſtly the cauſe of it. But what ſucceſs have we had theſe twenty years, ſince the ſevere Act of Uniformity and proſecution of Diſſenters? None but abatement of rents, and loſs of trade; and this is ſuch a ſtumbling block as we cannot avoid. I would make the Doctrine of the Church firm, and leave the Diſcipline at large.

Mr *Finch.*] *Birch* told me, "he would go a great way along with me," but he does not one ſtep. I ſaid, "the Doctrine was the true profeſſion of Chriſtianity," and he takes offence, as if I made an infallibility. He tells you, "all Sects agreed to the Doctrine, but the Quakers," and yet danger of altering—All his topics are out of doors, for all agree, that all Proteſtants ought to be united.

Col. *Birch.*] I know my diſadvantage. The ſtrength of *Finch*'s arguments, and the ſmoothneſs of his diſcourſe, have been known here before.

Mr *Somers.*] The Queſtion is, to add the words "ſhall be eſtabliſhed by Law." I deſire the addition, for great regard to the Legiſlature. In the former Paragraph,

it is "Statutes, and Laws, and Cuſtoms in being," in the other eſtabliſhment—He that gives his conſent to take away, does not maintain them. Put in "is, or ſhall be," and that takes in every man's conſent. It is ſaid, "that by this, we are going about to alter the government of the Church." Tho' the conſtitution be as good as poſſible for the preſent time, none can be good at all times. Therefore, I am for the word "may," and that will be a remedy at all times.

Mr *Pollexfen.*] We are all agreed, and I hope ever ſhall be, to the Proteſtant Religion "eſtabliſhed by Law." We deſire to conſider, whether the latter words ſhall be added, or not? I ſee no manner of reaſon againſt it. We all agree in ſubſtance, but if by the wiſdom of the Nation it ſhall be thought fit to alter, we are at liberty to do it. No man that maintains the Law, but maintains the whole Legiſlature, which alters and redreſſes the Law from time to time, as there is occaſion. We frame an Oath, not for ourſelves, but for the King, and he ought to be ſatisfied. The King is tender of what he promiſes; much more of his Oath. As on the one ſide it will ſeem broad, as if there was an intention to alter Religion, and I am ſure they will look much a-ſquint at us, the greateſt reaſon is, not to diſhearten the King, and to put upon him a jealouſy, for it muſt then return from him again.

Sir *Henry Capel.*] What makes me riſe up is this; of what will be ſaid abroad of making another Church than this of *England.* It is a tender thing to make a Law, but in an Oath for another perſon to take, it is always a rule to expreſs the thing plain. I would know what harm there is in the words, to take in every man's apprehenſions? If theſe words paſs in the Negative, may not that ſtartle the King, to ſee it upon our Books as a doubt? I have ſeen alterations, in this place, of the Church of *England*, in *Charles* II's time, and ſhall we bind up ourſelves? It is argued, "this may bring in another Church," but conſider how the Proteſtant Religion has been invaded, and how this Prince is aſſiſted by Proteſtants. But ſhould you put theſe words narrowly, they may ſay "your Parliament has limited you to a Church unalterable, and will let in nobody." In this addition, there is no intent

tent of any hurt to the Church. If we do not comprehend, and make our entrance broad, at this time, you may create jealouſies at home and abroad. I have ſeen, by Court-practices here, one party ſet up againſt another, and all done by the Popiſh party. I heard here, upon the Declaration for Liberty, promoted by Lord *Clifford*, both Biſhops and Diſſenters againſt it, and we threw it out. I remember Col. *Strangways*'s ſtory of two Deer that were always fighting, and a raſcal Deer behind a tree came upon them when weary, and beat them both. Seeing we all agree that the King ſhall have no hardſhip put upon him, certainly it will be more explanatory to him, and ſatisfactory to us, to add the words.

Sir *Thomas Clarges*.] I think thoſe words will make the World think we are about to alter the whole Religion, the true Proteſtant Religion eſtabliſhed by Law. Perhaps the words may be plainer, but ſeeing ſo much weight laid upon them, makes me apprehend that ſomething lies hid, that the Preſbyterian party, the lean Deer, will take it from us both. Whilſt a ſort of men, that profeſs the Proteſtant Religion, joined with Popery lately in the Declaration, and write, and profeſs that the penal Laws ought to be taken away, now you are making an Oath honeſtly and plainly, to explain it to the World.

Mr *Ettrick*.] I doubt not but the opinion of the Houſe will have great weight with the King. It would be of great conſequence to repreſent to the King, that a majority of the Houſe is inclinable to alter Religion; as will be implied by this Vote.

Sir *Henry Goodrick*.] Let us not impoſe ſuch a hardſhip upon the King, eſpecially when we all do intend a comprehenſion. But how will you tie up the King? This is for the protection of the whole Proteſtant cauſe, and no particular party or claſs. If you put ſcruples into the King's mind at the firſt ſtep, this will be a diſcouragement to him: I move therefore for the words "are, or ſhall be eſtabliſhed, *&c.*"

Mr *Howe*] Has not this Deer lain long enough lean in jails? Did not you promiſe, in the Biſhops' Declaration, a tenderneſs to the Diſſenters who prayed for the Biſhops in their afflictions, as their Martyrs? Shall we

diſoblige theſe people? Though I think they will never go over to King *James*, I hope we ſhall keep the King's word, and the Biſhops. What can be the meaning of this ſcruple, and to put it into the King, and make theſe people deſperate? Let them help to protect us; indeed we ſhall have need of them. If you do not add theſe words moved, it will be thought the King has taken an Oath, without any conſideration of what theſe men have ſuffered.

Mr *Godolphin.*] All our ſecurities reſt upon the King's conſcientiouſneſs. I would not put in the words, becauſe I would not leave a doubt, if it is not in the intention of the Houſe to alter the Religion eſtabliſhed by Law. I would have tender conſciences come in at the door, and not pull down the rafters of the Houſe to come in at the roof. Thoſe who ſtood to the Proteſtant Religion were the Biſhops; thoſe who were againſt it were thoſe who managed *Brent*'s regulation of Corporations; and I would have no countenance given to them.

Sir *Henry Goodrick.*] Let us not take out two words of the Oath, to blaſt the King, if he will deal candidly with the Declaration, with due regard to the Church of *England.* He tells you not who put theſe men upon doing what they did. It is neceſſary for the King's honour, and the union of all Proteſtants, to put in theſe words.

The Queſtion being put, Whether the words ſhall remain in the Oath, "to preſerve the Church, *&c.* as it is now eſtabliſhed by Law," it paſſed in the Affirmative, 188 to 149.

Tueſday, March 26.

On ſettling a Revenue on Princeſs *Anne.*

Sir *Thomas Clarges.*] You cannot ſettle a Revenue upon any body. I remember at *Oxford* there was a Bill to enable the King to ſettle a Revenue* upon the Duke of *York.* I would have the King's Revenue inſpected.

Sir *William Williams.*] There was a Revenue of 60,000*l.* for the Duke of *York* ſettled, and the Poſt-Office. He had power to appoint a Poſt-Maſter General by Patent;

* I rather think "the gift of a ſum of money." *The Compiler.*

and

and that is a certain Revenue worth 100,000*l. per annum*, and the Wine Licenſes. Theſe were veſted in the Duke of *York*. There was care then taken for the maintenance of his dignity. It is fit to conſider the Princeſs, who did more than women in their ordinary courſe. She forſook her Father for the ſake of the Proteſtant Religion, and ought to be made exemplary by us, and a monument for her for ever. I would refer it to a Committee.

Mr *Hampden.*] I move very tenderly. In Motions of this nature, that are acceptable, we are moſt ſubject to errors in the management of it. She may be in want of Money, but you cannot refer Money to a private Committee. But if there be any way to propoſe, I would hear it. When the way of raiſing the Money is found out, that is the proper time to have it moved. I remember at *Oxford*, when the Money was granted for the Duke of *York*, there was grumbling.

Mr *Harbord.*] Something has been ſaid that reflects upon the King, as if the Princeſs was in want. When the King was at the Treaſury, he ſaid, "he would have the Money all go for publick Uſes." For the Fleet, the Queen Dowager, and the Princeſs *Anne*, theſe were the uſes, and they are taken care for.

Sir *Henry Capel.*] You do two great things in taking care for this Princeſs, of great honour, and virtue, and ſupport to the Proteſtant Religion. Though there be no Precedent for a private Committee to conſider of Money, I would not have this Debate go off without ſome words in your Queſtion, *viz.* "That when the Revenue is ſtated, the Princeſs may be conſidered."

Mr *Boſcawen.*] I would have the Princeſs have the Revenue of the Poſt-Office, but not the Office; that ought to be in the Crown, for the inſpection and management of Letters.

[*Reſolved*, That, when the matter of the Revenue ſhall come under conſideration, the Houſe will then conſider of ſettling a Revenue upon the Princeſs *Anne* of *Denmark*.]

Wedneſday, March 27.

An Amendment was made, by the Committee, to the Coronation Oath, &c. *viz.* "The Proteſtant Religion profeſſed by the Church of *England*, &c." which was reported.

Sir *Henry Capel.*] Theſe words added may be of great ſervice. The Oath the King takes is to God Almighty, and he ought to ſatisfy his conſcience. I like the words, "the Church of *England* eſtabliſhed by Law." I believe not the Church in the leaſt danger in this Parliament; and if the Proteſtant Religion may be eſtabliſhed by this Oath, as well as the Church, I ſhould be well ſatisfied.

Mr *Finch.*] Without entering into Debate of the words, I think they are brought in ſcarce according to the rules of Parliament. By adding theſe words, it is not only mending the Bill, but reverſing what you have agreed upon in the whole Houſe. It was not in the power of the Committee to alter any thing, neither can you do it here.

The Speaker.] Without doubt, the Houſe may alter any thing in the Bill.

Mr *Hampden*, jun.] The Amendment offered is, "The Proteſtant Religion profeſſed by the Church of *England.*" All are perſuaded, that the King will maintain the Proteſtant Religion. I would have it, "To maintain the Proteſtant Religion, and the Church of *England*," and that will comprehend every man's ſenſe.

Sir *John Thompſon.*] I am not for the words "eſtabliſhed by Law." Lord *Ruſſel* ſaid, "he died for the Religion of the Church of *England*," but did not believe it, becauſe he ſaid not, "eſtabliſhed by Law."

The Amendment was rejected.

Thurſday, March 28.

[The Bill for eſtabliſhing the Coronation Oath was read the third time.]

Mr *Pelham offered a Proviſo to the Bill by way of Rider.*] I am ſorry for the heats the other day. What I offered then was, I thought, a ſervice to the King and the Church of *England*, in which Religion I was bred up. If this Proviſo I ſhall now offer, ſhall meet with a general acceptation, I ſhall be happy. If not, I ſhall ſit ſtill contented. The Proviſo ſhows, "that you do not intend to prevent the King to give his conſent to change any form, or ceremony, now eſtabliſhed, ſo as the Doctrine and Diſcipline, *&c.*"

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The Proviſo was as follows: "Provided always, and be it hereby declared, That no Clauſe in this Act ſhall be underſtood ſo, to bind the Kings or Queens of this Realm, as to prevent their giving their Royal Aſſent to any Bill, which ſhall be at any time offered by the Lords and Commons, aſſembled in Parliament, for the taking away or altering any Form or Ceremony in the eſtabliſhed Church, ſo as the Doctrines of the ſaid Church, a publick Liturgy, and the Epiſcopal Government of it, be preſerved."

Sir *Chriſtopher Muſgrave.*] There is no occaſion for this Proviſo. It cannot be imagined, that any Bill from hence will ever deſtroy the Legiſlative Power. Therefore, there being no need of this Proviſo, pray lay it aſide.

Mr *Garroway.*] The other day, you accepted not of an Amendment offered, becauſe it was ſaid, "what was offered was implied." Others thought not, becauſe not expreſſed. The exception againſt this Proviſo ſeems as if you had not power without it, by the Legiſlative Authority, to alter any thing in the Church. This Proviſo puts people in hopes of grace and favour, and I would have it paſs. I think it a good Proviſo.

Sir *Henry Goodrick.*] This Proviſo is brought in with a good and ſincere intention; it carries an aſpect of healing our diviſions. Was here any thing to invalidate any particular thing, whereby the Legiſlative Power might be reſtrained, I ſhould not concern myſelf. We are all of a mind, and as this is for compoſing and healing, and does ſo fully preſerve the Church Doctrine, it relating to Diſcipline, and being only a Declaration as to Diſcipline, I would give it a ſecond reading, and make it part of the Bill.

Mr *Finch.*] I am againſt this Proviſo, when I conſider it will not have the effect propoſed, but quite the contrary. The Proviſo comes in to help the Clauſe in the Oath, "to maintain the Religion eſtabliſhed by Law." Now theſe words "eſtabliſhed by Law" hinder not the King from paſſing any Bill for eaſe of Diſſenters, and when this is paſſed, the Oath remains. The words now are not eſtabliſhed by Law indefinitely—This Proviſo makes the ſcruple, and gives the occaſion for it. What ſays the Proviſo? Unleſs it were in the King, "not bound to give any conſent to alter the Laws, *&c.*" When the ſcruple is raiſed, the Proviſo does not clear it. When the King has taken the Oath to maintain the Proteſtant Reli-

Religion, "as eſtabliſhed by Law", and not "as ſhall be eſtabliſhed", this Proviſo does not at all cure the Oath, when he has ſworn to eſtabliſh it, *&c.* That gives occaſion to the ſcruple; and I am againſt the Proviſo.

Sir *William Williams.*] If this Proviſo improves a ſcruple in the King rather than removes it, I am againſt it; but if it clears the doubt, I am for it. When the King ſwears to govern according to Law, if a relaxation to Diſſenters, the King may do it by Law. Says the King, "I make a doubt, whether I do not ſwear to keep all the Laws unrepealable;" therefore, ſay we, though the Law be ſo by implication, the Lawyer cannot remove any ſcruple; therefore is there any hurt to ſpeak plainly? This is *argumentum ad hominem*, not *quoad hoc* or *hunc*, We are to make the Oath explicit, without ſcruple. I ſee no manner of danger in the Proviſo; it ſhows ſpecial regard to the Church of *England.* The Doctrine is not to be altered: All the Biſhops in the world cannot do it. Though they differ in circumſtances, men will differ; 'tis lawful and neceſſary ſometimes, that the truth may appear. I take it to be for the honour of the Church of *England*, to comply with any Ceremony, or none—I am for the Proviſo.

Sir *Robert Sawyer.*] This is the firſt Proviſo of this nature that ever was in any Bill. It ſeems to ſtrike at the Legiſlative Power. The King has both Divines and Lawyers about him, who will clear him the ſcruple. It will create ſuch a doubt—Therefore whatever the pretence is, it cannot ſatisfy the King, only thoſe without doors. Therefore to ſhow a thing at this time of day, to make a Queſtion of that conſequence—I would lay it aſide.

Sir *Robert Cotton* of *Cambridgeſhire.*] Tho' the Proviſo looks well and healing, yet it ſeems to imply a defect, not able to alter Laws, as occaſion requires. This, inſtead of one ſcruple, raiſes more; as if you were ſo bound up to the Eccleſiaſtical Government, that you cannot make any new Laws without ſuch a Proviſo.

Sir *George Treby.*] Since this Proviſo is tendered, I am for retaining it. Perhaps now 'tis brought in, 'tis more neceſſary to retain it, than to have brought it in at firſt. 'Tis agreed to be the ſenſe of the Houſe, that

theſe words, *&c.* do not bar the King from making any alteration, *&c.* When you ſay "the Proteſtant Religion, *&c.*" it muſt be with theſe Ceremonies, and Government, by Law eſtabliſhed. Therefore that you mean the manner and form of the Government is alterable, is agreed by all. You will find, in the Preface to the Common Prayer-Book, "that all Ceremonies are indifferent and alterable," and this Proviſo is, that alterable things may be altered; and no hurt done, if both Houſes agree. To bind up your freedom in any thing here, you yourſelves would call cloſeting. The late King *James* had made me more offers than I will ſpeak, of Preferment, if I would conſent to diſpenſe with the penal Laws and Teſt. I uſed all the arguments I could to diſſuade him againſt it. He ſaid, "I was very ſtiff." I told him "I would not engage to take away Laws nor to keep them, but I deſired to come into the Parliament with my freedom." No man ever doubted that the King was bound by any Oath not to alter the Church-Government. King *Charles* I thought himſelf bound by his Coronation Oath not to alter Epiſcopacy, the Government being in Epiſcopacy; and therefore this is no novelty, to raiſe ſuch a ſcruple, which this Proviſo may fully quiet, and ſatisfy the ſcruples of tender conſciences, and ſuch as know not our Laws. You yourſelves made an Act for declaring this a Parliament, when you were ſatisfied, and excepted Privilege of Parliament in the *Habeas Corpus*, *&c.* 'Tis ſaid, "This Proviſo is uſeleſs, and you will not have your ends." This Proviſo does not abſolve the King from his Oath—But the Oath is part of the Act, and you explain that Oath. 'Tis ſaid, "It ſhall not be underſtood to alter Epiſcopacy in the Church-Government;" thoſe who love it, would be glad to ſee it a Monarchical Government of Epiſcopacy. This will amount to no more than ſuch alteration as the Parliament has always done, and the Church has been preſerved in ſo doing. When we are dead and gone, all theſe Debates will be in the air, and a greater ſcruple remain. We have the uſe of words and writing, to explain our meaning; and it being agreeable to your own meaning, pray paſs it.

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Mr *Sacheverell.*] I have attended the Debate, and I think it does not agree with that the other day, when every body did leave the ceremonial part of Religion to the Law, ſo the doctrinal part were preſerved. It was for the words "are, or ſhall be, by Law eſtabliſhed." I did apprehend, and yet do, that point is a ſcrupulous matter, and may be a doubt to the King. I was one that did not ſee ſo clear as others. I cannot ſee why they ſhould deny us an explication of our Oath. Learned Gentlemen do doubt: I am not ſo learned as they, and therefore muſt doubt. Certainly they have ſome other reaſon than what they tell us, or elſe ſome latent ſenſe that hereafter they may explain. The Proviſo is no more than what we ſaid, we mean by it, and they ſaid, they meant by it, the other day; and I muſt be for retaining it.

Sir *Joſeph Tredenham.*] I am of opinion, that all eaſe and favour ſhould be ſhown to tender conſciences, conſiſtent with the ſafety of the Nation, but I know not how this Proviſo will anſwer all expectations. I cannot imagine any ſcruple in the King to paſs this Law. 'Tis granted by all, that by "Law," is meant what is in the Legiſlative Power. When the King ſees this Proviſo in the Act, for the Coronation Oath to bind him up without it, will it not make alterations in the Government which may affect all Laws?

Sir *Thomas Lee.*] I was the other day of opinion, that the Oath might have been plainer by the other words offered; and now here is a Proviſo to explain it. I am afraid the words, as penned in the Oath, do too much bind up the Legiſlature. The Oath obliges the King to maintain the Religion eſtabliſhed by Law. The Proviſo ſays, "The King ſhall be always at liberty, and, by Act of Parliament, Ceremonies may be altered at any time." All Oaths are taken in the ſenſe of the impoſer, which reſtriction is not to be exerciſed but in certain caſes. It will, I fear, creep in, that other Laws cannot be made without ſuch a Proviſo. Therefore I would lay it aſide.

The Proviſo was withdrawn, and the Bill paſſed.

[Adjourned to *Monday.*

April 1, 2, 3, 4, and 5, Omitted.]

Saturday,

Saturday, April 6.

A Bill of Treaſon, *&c.* from the Lords, was read the firſt time *.

Sir *Joſeph Tredenham.*] I am againſt this Bill as unneceſſary, and of dangerous conſequence. The 25th of *Edward* III, the declaratory Law of Treaſon in full Parliament, is in full force. Does not this Bill lay a ſort of imputation upon us, and give opportunity to a libeller to ſay, "that the ancient Laws are not ſufficient for the preſent Conſtitution of the Government, without making new? (*The Title of the Lords Bill was*, "*for regulating conſtructions upon the Statutes of Treaſons, and Tryals, and proceeding on Writs of Error in caſes of Treaſons.*") When you paſs a Bill like this, to make it Treaſon to aid and aſſiſt thoſe that conſult againſt the Government, I may be cenſurable for other mens Treaſons, which, from my heart, I utterly abhor. The matter of fact muſt be fully proved, to do it "knowingly and maliciouſly:" Theſe Words are generally taken for granted. I am apt to believe, if any Gentleman ſhould have the misfortune to be tried by this Act, "that knowingly he did aid and aſſiſt Conſpirators againſt the Government," he may be anſwered, as it was on another occaſion, "that the words are put as pepper and vinegar, only ſauce, *&c.*" I would know the meaning of theſe words "adhering, *&c.*" more than the declaratory Statute of *Edward* III. Is it intended by this "adhering, *&c.* that the Biſhops and the Clergy, that have not taken theſe Oaths, that this obſtinacy ſhall be an argument, if not an evidence, to be "adherents?" If that be the crime, you will make your number of criminals too many, if to correſpond with the Biſhops be "adhering to the King's enemies." 'Tis taken for granted, that the Judges will be interpreters of your Law; and ſhall it be judged what "adherence" is "to the King's enemies" by the Judges? This makes Mutiny in the Army, Treaſon. This is an extraordiny Clauſe, and

* This Bill and Debate are not mentioned in the Journal.

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I remember not the like. Mutinies have often riſen from innocent occaſions. How are we certain that, if our Debates here are miſrepreſented abroad, it may occaſion diſorder, and, by an *Innuendo*, deſtroy freedom of Debates? You have a Bill already paſſed to quiet diſorders in the Army, and the neceſſity of affairs required Martial Law for ſome time, though it was ever contrary to the genius of our anceſtors. This Bill puts people under greater ſeverities than Martial Law, which makes no Attainder upon offenders executed. The next thing is, that it makes it Treaſon to withdraw a Mariner or Seaman from his ſervice. If it ſhould happen that a man adviſe his friend or ſon, (or be a guardian to a perſon) to another courſe of life than the ſea-ſervice, he ſhall be within the Penalty of this Act. We have thought it neceſſary to impoſe a Tax upon the people, and I believe we muſt have more, and commonly ſome new franchiſes or privileges were anciently grantedwith Taxes; but this multiplying of Treaſons will prove of fatal conſequence. The weight of the people, in the late Revolution, was of great conſequence. I deſire to be ſatisfied with the Laws as they are, which are ſufficient for the ſecurity of the Nation, without new Laws; and I am againſt this Bill.

Colonel *Tipping*.] As this Bill is penned, I think no Member in the Houſe will be for it. To declare or proclaim King *James* is Treaſon. I have been always againſt making words Treaſon; for paſſion, or a man in drink, or a miſtake of a word, may put our lives into our ſervants hands, who may ſwear Treaſon againſt us. Certainly, you muſt have a Proviſo for the Proteſtants in *Ireland*, who have been compelled to own King *James*. But it is neceſſary to make promoting King *James*'s title to be Treaſon, for as the Law now ſtands, it is not Treaſon. Therefore I would commit the Bill to mend it.

Mr *Pelham*.] As I think the preſent King has as much intereſt in the Crown in Law as any other King had, therefore I think it is wholly againſt this King. It is impoſſible to mend it. We are Repreſentatives of

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the Commons of *England*, and muſt take care of them; therefore I move to throw the Bill out.

Mr *Hampden*.] This thing of conſtructive Treaſon was ſet on foot in King *Charles* II's time. If there were not overt Acts, yet it was conſtrued to be Treaſon. This was not only extrajudicial Treaſon, but ſome you have reſtored in Blood this Parliament, who loſt their lives for it *, by words from one witneſs, and a pretended writing found in Mr *Sidney*'s cloſet, and many other abuſes; but this has been the higheſt offence. That to be judged Treaſon, which was not ſo by Law, was wiſely provided by the 25th of *Edward* III, to be judged in Parliament—But then, in ſome caſes, this Houſe thought fit to go farther than the 25th of *Edward* III, and made it Treaſon to conſult levying War, and nobody complained of it, becauſe it was according to Law. The caſe of *Habeas Corpus*—Next to your Lives, nothing is dearer to you than your Liberties; and yet you have thought fit to ſuſpend that Law, and nobody can complain of it, becauſe done by Law. The occaſion of that Statute of *Charles* II was, there was no Rebellion againſt that King, when that Statute was made, but to ſhow your dearneſs to that King. If you do not ſupport the Government in a more than extraordinary road, in this extraordinary change, you may ruin it. I believe, the Lords, when they paſſed this Bill, had that of *Charles* II in their eye. Perhaps common People may think you will not puniſh offenders of this kind, if you reject this Bill.

Sir *William Williams*.] You are, by this Bill, creating a new Treaſon. When the Statute 25 *Edward* III was made, all new declared Treaſons were deemed as pernicious. In the 1ſt of *Mary*, you will find as good Laws in her Reign, as any other, which reduces all Treaſons to their firſt ſtandard—The thing left indefinite. Should you enact this Treaſon, who can be ſafe in more than one companion? What an earthquake will this make! We are now a divided people. There is a malignity and ferment in the Nation; and now you ſay,

* Lord *Ruſſel*, Colonel *Sidney*, &c,

you

you will make a Law to hang one another, to execute a malicious man's revenge; and let our enemies divide the people by animoſities, to ruin them; by this Bill, two ill men may deſtroy one hundred good. Carry but two witneſſes from *Berwick* to *Dover*, and you may deſtroy the Nation. If I may ſpeak with modeſty, I think the Lords have not conſidered it, before they ſent it us. I look on it as an indigeſted thing. Look upon declarations to the King, as principles to proceed upon. You declare, by this, the Statute of *Edward* III in vain; and ſhall you, in the beginning of a Reign, deſtroy that Law? Shall we undermine that great ſecurity of the ſubject? Shall we weaken that ſecurity? And can we think ourſelves wiſe? And all this becauſe of an imagination of conſpiracies. The Statute 25 *Edward* III is a manifeſt Law; "adhering to the King's Enemies, in or out of the Kingdom, is Treaſon." What need of this? You have declared that King *James* is an Enemy to the Kingdom, and adhering to him is Treaſon. You have abdicated him. To ſay, that King *Charles* II was a Papiſt, was Treaſon, and one *James*, a Nonconformiſt Preacher, was tried by that Statute; it was on a Conventicle information by two ſoldiers. The men were aſked, if they could remember any one ſentence he ſaid beſides?—The man was found guilty. Experimented Laws are beſt. This is a new one. I move to throw it out.

Sir *Thomas Clarges.*] I deſire the Bill may be rejected. The reaſon of the Law of *Edward* III was, becauſe, before, Treaſon was ſo looſe, there could be no commerce with mankind with ſafety: Therefore that good King (as Lord *Coke* calls him) made that Law. There were good Judges then, and in Queen *Mary*'s time, when ſhe came to the Crown; and perhaps there was great reaſon, if ſhe followed the humour of thoſe about her, to make uſe of conſtructive Treaſon; but ſhe was adviſed, for the quiet of her Government, to reduce all Treaſons to the Standard of 25 *Edward* III, and to repeal all new Treaſons. I would know if any Treaſon is not provided againſt already by the Statute of

Edward

Edward III. To betray Forts and Caſtles, to be aiding or aſſiſting to the King's enemies, to deliver up his Veſſels—By Martial Law, in *Charles* II's time, it was death to deliver up any Veſſels, *&c.* If you paſs this Bill, inſtead of avoiding conſtructive Treaſon, you will put this into the power of the Judges. This Bill has eight conſtructive Treaſons: Mutiny is Treaſon, by this Bill. If the Officer be ſick and weak, and deſires to deliver up his Commiſſion, it is Treaſon, *&c.* I wonder this Bill ſhould come from the Lords, whilſt the Judges are there to adviſe them. It will not be for their honour to poſterity. This is the firſt experiment of theſe Judges, to let this Bill paſs ſilently, to the very deſtruction of our Laws. There are ſome ſecurities, at the latter end of the Bill, for our Tryals; but there is proviſion for that already. If I did not think there was ſufficient proviſion already againſt theſe Treaſons, I would never move againſt the Bill.

Col. *Birch.*] Conſidering our preſent circumſtances, before you throw out the Bill, I would conſider them. Go where you will, you ſee rebellious Pamphlets; and, if you will believe our Letters, the People are ſo emboldened, that they profeſs ſervice to King *James.*—It is ſaid, "Companions cannot go drink together, without danger of their lives, if this Bill paſs." When it was informed againſt me, out of my own buttery, that I ſaid, "The King was a Papiſt," the Informer had not ſo much wit as malice; and I came off. Nothing is more miſchievous than to throw out this Bill. We are here by the King's Authority, and I would willingly have this Bill, or ſomething elſe. If you throw out the Bill, they will do their work with impunity. If this were to be a laſting thing, it were another matter. It is ſaid, "The Statute 25 *Edward* III makes full proviſion for all things in this Bill, and we need no more."—I have heard it often ſaid here, how dangerous it is to make new Treaſons! But if theſe things, that we are informed of, be true, then make the Bill for two years, or one; but pray throw it not out. If all this be already provided in the Statute of the 25th of *Edward* III, pray read that Statute.

Mr *Sacheverell.*] I think there is not one good Clauſe in this Bill. As for making words Treaſon, you have had fatal conſequences of that. You are told, by *Clarges*, the uſe and original of that Statute of *Edward* III. The caſe was, the Judges then had done as ours have lately. They have executed it, upon a civil conſtruction, on a Clergyman at *Lincoln*: To avoid that for the future, you adviſe the King, (*and reads part of the Inſtrument*) *inter alia*, "That proviſion may be made, by new Laws, for the ſafety of the Government." Therefore I think it may be of ill conſequence to throw this Bill out, and not bring in another. Therefore I hope you will order another Bill, though this is not for your ſenſe.

Mr *Ettrick.*] There is no danger in throwing out this Bill. I am as willing as any man, that they ſhould ſuffer as Traytors, who offend againſt this Bill; but if we leave things open thus, it may be of dangerous conſequence; it looks like a conveying away a man's life with his eſtate. In heats of the Government, Treaſons have been made. In *Henry* IV's time, things were well ſettled; a man could not know, in *Henry* VIII's time, what to ſay, there were ſo many Treaſons, and in *Edward* VI's time; but thoſe were repealed by Queen *Mary*. It cauſed compaſſion in *Engliſhmen*, when they ſaw ſo many mens quarters hanged up upon the Weſtern roads; and it was ſo far from quieting the Government, that it inflamed mens minds. That this Bill ſhould paſs the Lords, no wonder; but to come from the Commons, who are to take particular care to make no conſtructive Treaſons!—We have been free with the Commons for their Liberties, in parting with the *Habeas Corpus*, *&c.* But to hazard their lives, and put them into hands of malicious people, to take away their lives, we cannot anſwer it.

Serjeant *Maynard.*] We were told, in the Parliament of the late King *James*, of the words of our Saviour, that were teſtified againſt him, about *deſtroying the Temple, and raiſing it in three days*—People are ſo uncertain in their memories, that where men make a ſet of words to ſwear by, they are not eaſily diſproved. This will prove rather a Bill of Exile, or Baniſhment, than a ſecurity to the Government. They will go beyond ſea for ſecurity, rather

rather than be here: There will be ſuch a diſtruſt amongſt men, that they will rather live in caves and deſerts, than converſe with one another—*(The reſt the Compiler could not hear.)*

Mr *Hales.*] I remember what work was made before the Statute 25 *Edward* III. It is an improper time now; though we have very good Judges, yet ſome have got upon the Bench that have been perverſe interpreters of that Statute; and Counſel, who have adviſed and proſecuted, have crept within the Bar. I do diſlike that Clauſe, of "Freeholders to be of the Jury," and "the Party indicted to have a Copy of the Pannel;" as if it were not the right of the priſoner before. Something of poiſon lies concealed in this Bill, and I would reject it.

Sir *William Williams.*] If this Bill be rejected, you cannot bring in another of the ſame nature this Seſſion; but you may have a Bill "for the more effectual Explanation of the Statute 25 *Edward* III." This is a Bill, from the Crown, to enlarge Treaſon. We are here for the ſecurity of the Subject; and this is no ſecurity for neither Crown nor Subject; and I would reject it.

Sir *Chriſtopher Muſgrave.*] This Bill puts the conſtruction of Treaſon into the Judges; and therefore you may bring in a Bill, purſuant to your Vote of *February* laſt.

The Bill was rejected.

[*April* 8, 9,* 12, 13, 15, 16, 17, and 18 omitted.]

Friday, April 19.

Debate on the Lords Amendments of the Bill for abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths.

On the Clauſe for exempting the Biſhops, *&c.*

Sir *John Thompſon.*] This Amendment of the King's tendering the Biſhops the Oaths, *&c.* brings all the odium upon the King, as if the King ſuſpected their loyalty to whom he cauſes it to be tendered.

Sir *Thomas Dyke.*] The odium will be on the Council, and not on the King. All Acts of Grace are from the King, and he muſt be adviſed by his Council; and they muſt ſuſpect the perſons, and not the King.

* *April* 10 was the Coronation.

Mr *Ettrick.*] If the King ſee them dangerous, he may immediately offer the Oath, *&c.* to them; and that is the effect of the Lords Amendment.

Sir *Thomas Lee.*] Pray make us well underſtand this Amendment. The conſequence does not differ from the Lords, "That it may be tendered before the firſt of *Auguſt.*" But I would know how theſe ſtand together; whether agreeing with one Amendment does not draw the conſequence of aſſerting the future Clauſes?

The Speaker.] If the King iſſues out a ſpecial Order, before the firſt of *Auguſt*, for taking the Oath, *&c.* they are obliged to take it before that time.

Mr *Sacheverell.*] This ſeems to me to be a ſnare. If any ſort of Gentlemen, be they who they will, may pay no Allegiance to the King, I am againſt it. (*Reads that part.*) Your Bill, as it is penned, is to enjoin all perſons to take the Oaths; and this Amendment provides, "That if an Order of the Council, by Commiſſion from the King, *&c.*"—This cannot be a riding Commiſſion, all *England* over, to give the Oaths; then if it be not a ſeparate Commiſſion, which muſt have time of return—and then theſe perſons go out of the County, and ſo are free from taking the Oaths for ever—"By Order of Council"—They will have time to ſhelter themſelves, under the King's name, which ought not to be countenanced. No perſon ſhall be concerned in it, but ſo far as the Council ſhall adviſe; and then it is in their power, whether to execute your Act, or not. So, unleſs ſome reaſon be aſſigned, why the King ſhould ſuſpect, all cannot be thought ſo; and if for particular perſons only, your Act is illuſory.

Mr *Carter.*] All the ſubjects of *England* are under one King; and there is but one Allegiance, according to our Law. It was ſuggeſted here, "That the Biſhops had taken an Oath to King *James*, and therefore their conſciences would not bear it to ſwear to King *William*;" and I think that the ſtrongeſt reaſon why it ſhould be tendered them. We muſt not ſet two Heads on one Church, and divide the Biſhops. Some have taken it, and ſome not; and as to the Government, we have taken it; how can we be true to the King, if all do not! We have

have done it, and they ought to do it. Some are to leave their Offices on refuſal—Theſe men have ſix months time given them by the Lords Amendments—The conſequence will be, we throw dirt in our own faces, by doing it; as we are obliged to it, ſo I hope all elſe ſhall be obliged. A Popiſh Head was thought not ſafe for the Government; it will be a greater monſter to ſet up two Heads of the Government. Conſider how unkind this will be to the King. He ſwears to us, in his Coronation-Oath; and ſhall they not pay their Allegiance to the King? I would retain what we did before in the Bill.

Sir *Joſeph Tredenham.*] *Carter* is much miſtaken in the Queſtion; it not being, whether the Clergy ſhall take the Oath, or not: If it were ſo, I ſhould be of *Carter*'s opinion; it is only, whether you will agree with the Lords Amendments? It is only, whether there ſhall be a Truſt in the Royal Dignity, or no? And a Queſtion only, that the King ſhall have power to require the Clergy to give a teſtimony of their Loyalty. If any of the Clergy own any other Power, that it may be in the King's power to make Tryal of them. You are told, "This will put a hardſhip upon the King." If Truſt be a hardſhip, the Crown is a hardſhip. The ſeverity is not in the Crown, but in you. Perhaps, in another Reign, it may not be ſafe to lodge this Power in the Crown; it is ſafe now: And I would agree to the Lords Amendment.

Mr *Howe.*] By what I find, by his Motion, the ſtreſs lies in the Commiſſion: That Clauſe is not to impower the King to diſpenſe totally with the Oath, but to tender it before the time. The bait ſeems to be, putting power into the King; but I am not for either giving the King new Power, or taking any from him. I cannot think but all ſhould take the Oath; and how can they offer Oaths to others, which they will not take themſelves! And they ſo tender, that none but themſelves ſhall be diſpenſed with. It is no hardſhip for a man to be put out of an Office, if he be not capable of it. If they will not ſwear Allegiance to this King, they owe it to another; therefore I would have no power left to bring in King *James.*

Sir *Thomas Littleton.*] I differ from *Tredenham:* It is not ſuch a great Truſt—It might, by his argument, have as well been inferred, that the King ſhould give it to all his ſubjects, if the Biſhops, in this caſe, were not tenderly uſed—In nine months, King *James* will either be here, or never; and therefore I am againſt the Amendment.

Mr *Finch.*] Notwithſtanding the reaſons I have heard againſt the Amendment, ſome of them ought not to have regard here. Now you make a new Law, the Queſtion is, how you will extend that new Law? All perſons in Office muſt take theſe Oaths; the Amendment is not to excuſe them from the Oaths, but a Commiſſion from the King to give theſe Oaths ſooner, if he pleaſe. Diſagreeing with the Lords is to oblige all men, within that time, without diſtinction, to take them. In the year 1649, when the Engagement was enacted, none were obliged to take it but thoſe of the Clergy, who were hereafter to come into Livings. You are told, "In that time, King *James* will be here, or not expected." I hope you will not imagine, that theſe perſons have any expectation of King *James*, or that they have any worldly conſideration; they are not fond of it, and have ſufficiently ſuffered for it. If you are not ſecure without this, conſider whether the puniſhment's falling upon ſome perſons will make you more ſecure.

Sir *Thomas Lee.*] I am ſurprized that Gentlemen are ſo much for the Prerogative of the King—You are making a new Law; and it is but compounding for a new one; and before this change, I know, no ſubject was exempted from the Oath of Allegiance. This inſtance given you (by *Finch*) was of the Engagement in 1649. I remember the Dean of *Chriſt-Church* was in it, and was turned out for refuſal of the Engagement; and thoſe times did not think themſelves ſecure—And now, if you think the Laity are only obliged to Allegiance, it is ſtrange. I am ſorry that Subjects ſhould have more conſideration for their Fellow-ſubjects than for the King. It is not ſo long ſince ſome would have King *William*'s name only in the Regency, and King *James* to ſtand King. The Biſhops may ſay, this is for the good of the Church.

Church, that they ſhould have liberty to ſit in the Lords Houſe, but not take the Oaths, thinking themſelves obliged, by their Oath, to King *James*. Therefore I would not agree to the Amendments.

Sir *William Williams*.] How can you make this Law equal? You put it in the power of the King; if he order it not, they ſhall not take it; and if all perſons may be under the ſame qualifications, your Law then is equal. The conſequence muſt proceed from Principle, or Humour; if from Principle, it muſt proceed from other Oaths that they have taken; and it is part of your ſecurity, that the old Oaths be aboliſhed; and what can reſiſt an Act of Parliament? Shadows follow bodies; can you abſolve me of my Oath of Allegiance and Supremacy? The ſame Power that created thoſe, has aboliſhed them. But the Biſhops ſay otherwiſe; they are ſo ſtrait-laced, and ſtraitly bound, by their Allegiance to King *James*, that this Act cannot abſolve them. By this diſpenſation of the Clergy, inſtead of uniting the People, you ſeparate them. I am for all perſons to take the Oaths, and no encouragement given to any to ſeparate from the reſt of the Nation.

Sir *Robert Cotton*.] The Queſtion is now, in a new Government, whether we ſhall make Diſtinctions? I could wiſh all ſorts of Clergy would take the Oaths. By this Commiſſion, *&c.* the King may have ſuch effectual ſecurity as may prevent any miſchief that may enſue. I hear talked of a Regency, in King *William*, mentioned in favour of King *James*; but I cannot think that, when you have done all things that have made you irreconcileable to King *James*, you will think of calling him back again. But, at this time, to have any diſagreement with the Lords would be fatal in the conſequence. Therefore I would agree to the Amendments.

Mr *Godolphin*.] The Queſtion is not, Whether the Oaths ſhall be taken, or no; but, Whether the King ſhall have Power, by Commiſſion, to tender them, *&c?*—— We are running into Diviſions here, to prevent Diviſions in the Clergy. In *Henry* VIII's time, there were ſeveral Limitations of the Crown, and the Oaths were forward and backward. I would agree.

Mr *Paul Foley.*] The Lords have not only differed from us, but from themſelves. This point has been twice ſettled in the Houſe already; and I hope the Nobility of the Kingdom deſerve favour and conſideration, who have been turned out of their Places, as well as the Biſhops. We ought to take care, that there be no perſons in the Kingdom, but ſuch as will ſubmit to the Government.

Mr *Boſcawen.*] I am ſuſpecting my own underſtanding in Law, when *Sawyer* aſſerts a thing. I deſire that the Statute of the Oath of Allegiance may be read.

Col. *Birch.*] The Statute ought to be read, when a Gentleman deſires it; and it muſt, for it is part of his Speech. *(It was read.)*

Mr *Boſcawen.*] It is apparent, by this Law, that there is no diſtinction betwixt Eccleſiaſtical perſons and others. King *James* I came new from *Scotland*, and this Law was to make a Recognition of his Government. It is certain that ſome Scruples they make, either that they are obliged to the former King, or that this perſon is an Uſurper; and, by conſequence, you are no Parliament, he is no King. Theſe are the plain conſequences; and then, whether you will give this indulgence, or not? The Leaven will run through the whole Clergy. Upon conſideration of the whole, I make this to be tripping up the heels of the whole Government. If the Clergy have obligation to King *James*, they are bound to aſſiſt him when opportunity ſhall ſerve; and when no opportunity, they are content to ſit ſtill, and when there is, they will tell you more. This is the effect of the Lords Amendment; and I would not agree.

A Committee was appointed to draw up Reaſons, *&c.* to be offered at a Conference.

Saturday, April 20.

Sir *George Treby* reports, from the Committee, the Reaſons for the Commons not agreeing with the Lords Amendments, which were agreed to by the Houſe, and are as follows:

"1. Becauſe it has been the policy of the Common Law, and Statute Law, to oblige men to ſwear to the King.

"2. Allegiance is the common and neceſſary duty of all Subjects, and is moſt ſtrictly to be required of Archbiſhops, Biſhops, and thoſe who have Eccleſiaſtical Dignities, Benefices, or Promotions

tions, in regard they are highly intruſted in the Adminiſtration of the Government, draw great dependencies, and are exemplary to the reſt of the people; and ſeveral of them are, by Law, to adminiſter the Oaths of Allegiance to other perſons. Allegiance is alſo ſtrictly to be required of all Governors, Profeſſors, and Fellows in Univerſities, and School-maſters, becauſe to them the education of the youth of the Kingdom is committed; and therefore they ought to be Perſons of known Loyalty and Affection to the Government.

"3. The taking the Oaths publickly, in open Court, will better manifeſt Allegiance, than the taking them privately, before perſons appointed by Order in Council; and will be much more ſafe for the perſons who are obliged to take the Oaths.

"4. The beſt and moſt certain means to have the Oaths taken, is to impoſe it upon the perſons concerned to tender themſelves to take the ſaid Oaths under penalties; but if the Oaths are not to be required, unleſs tendered, the ſaid perſons might by abſence, and otherwiſe, avoid the taking them with impunity.

"5. The Clauſe which the Commons ſent to your Lordſhips, allows more favour to the Archbiſhops, or Biſhops, and thoſe that have Eccleſiaſtical Dignities, Benefices, or Promotions, than to any Lay Peers, or other perſons having offices and employments; and is more gentle in the penalty than the Statutes heretofore made in like caſe.

"6. It is unreaſonable and unſafe to diſtinguiſh the Archbiſhops, Biſhops, and perſons having Eccleſiaſtical Dignities, Benefices, or Promotions, and ſuch as are intruſted with the education of youth, from the reſt of the Subjects, in the Declaration of their Allegiance; and may tend to make a diviſion in the Kingdom; and may raiſe and countenance Faction, both in Church and State.

"7. It may tend to expoſe the King's Perſon and Government to hatred and danger, and occaſion a general diſcontent."

[A Conference was deſired, where the above Reaſons were delivered.]

Monday, April 22.

[A Conference was deſired by the Lords.]

Sir *Thomas Lee* reports, from the Conference, the Lords Anſwer to the Commons Reaſons; as follows:

"In Anſwer to the firſt and ſecond Reaſons alledged to the Houſe of Commons, it is agreed, that the policy of the Law requires men to ſwear Allegiance, and that it is the common and neceſſary duty of all Subjects, and eſpecially of the Clergy; but the Lords do not exempt them from taking theſe Oaths, but only differ with the Houſe of Commons about the method by which they ſhould be tendered.

"To the third Reaſon: If the Lords ſhould agree, that it is better to tender the Oaths in open Court than privately, yet that is not a ſufficient reaſon againſt the tendering them by perſons appointed by

by the King in Council; becauſe the Officers and Judges of the Court may be ſo appointed, by virtue of the Clauſe offered by the Lords; or if it be not clearly enough expreſſed, it may be inſerted more explicitly.

" To the fourth: The Clergy will be required to take the Oaths, by ſuch Order in Council as is propoſed by the Lords, and their not appearing, when ſo ſummoned, will amount to a refuſal; or if it ſhould not, the Lords would agree to any ſuch addition as would make it ſo.

" To the other Reaſons: The Clergy and the Members of the Univerſity were not diſtinguiſhed from the Laity, becauſe, upon all promotions to any Degree or Preferment, they will be, equally with others, obliged to take the Oaths; and even thoſe that are already in ſuch ſtations, will be obliged to take the Oaths when required by Order in Council: And it ſeems to conduce more to the ſettlement and ſafety of the Government, that the King ſhould be impowered to put the fidelity of the Clergy to a tryal immediately, than to leave any who are ill-affected to the Government ſo much time as to the firſt of *Auguſt*, to be all that while undermining it.

" The Clergy are obliged, by the Prayers which they muſt read, in the daily ſervice, *but moſt particularly in the Communion ſervice**, to make ſuch expreſs and ſolemn Declarations of their fidelity to the King and Queen by name, that the putting them to take the Oaths is not ſo neceſſary to the public ſafety as in other perſons, who are not bound to make ſuch frequent declarations of their fidelity.

" In ſo critical a time as the preſent is, it is not to be doubted, but, upon any caſe of apprehending their ill affections to the Government, the tendering the Oaths, by Order of Council, will not only take off all imputation of hardſhip from his Majeſty, but juſtify, and even require a more rigorous way of proceeding againſt thoſe that ſhall give any cauſe of offence:

" Since, during Queen *Elizabeth*'s long and glorious reign, in which ſhe had both the pretended Title of the Queen of *Scots*, and the depoſing power aſſumed by the Popes, to apprehend, this was found to be the ſafeſt way for the public quiet; and the ill effects of leaving the tendering the Oaths to the Queen's diſcretion not having appeared in all that time of ſo much danger, and ſo many Conſpiracies againſt her perſon, the following a pattern taken from the beſt part of our Hiſtory ſeems more ſuitable to the preſent times, than the falling on other methods; which the Lords think a convenient Anſwer to the laſt Reaſon given by the Houſe of Commons."

Debate on the above Anſwer.

Sir *Henry Goodrick*.] I ſee it evidently here, by the Lords Paper, that a diſpenſing Power is aſſerted; a

* The words in *Italicks* are not in the Journal.

Power

Power in the King and Council to exempt a part of the People from their Allegiance; no doubt, any thing ſhall be granted, if you will give this Power of diſpenſing with this Law. What have theſe men done to merit this exemption? If your Clergy had not Curates, and if there were no Pluralities; if obliged to keep conformable Curate, the Curate will pray for King *William*, but the Parſon is gone, and you cannot puniſh him; and there is your diſpenſing Power. Conſider the difference of times; in Queen *Elizabeth*'s time, there was but juſt a new ſettlement of the Proteſtant Religion; half her Kingdom then were Papiſts; things (God be thanked!) are now ſo changed, that we are entirely Proteſtants, if we can keep ourſelves ſo. All this is no more than granting a Power to the King and Council, to diſpenſe with all the Statutes.

Mr *Howe.*] I have heard nothing to the contrary from the Lords Anſwer; and I think that all are obliged to take the Oaths. I believe this Power is aſked by the Lords, without conſent of the King. The Council is not infallible, nor, I believe, ever will, unleſs you put a Penalty upon the Council for not executing this Law. They agree to the neceſſity of the Oaths; yet, it ſeems, they give a Reaſon why not; as if Prayers for the King and Queen, in the *Litany*, was as much as taking the Oath of Allegiance. They pray "for all Chriſtian Kings and Queens." I cannot, with a ſafe conſcience, pray for King *James*; and if they will pray for them that they owe no Allegiance to, I deſire not their Prayers. That of a ſhorter day, I believe, is a Reaſon out of the ſtrong Box. The Precedent of Queen *Elizabeth* is not for us to follow. They who will ſide with thoſe who will not pay Allegiance to King *William*, will not ſtick to promote the Title of King *James*. We have Reports of Conſpiracies, and they are from thoſe that are Enemies; and thoſe that will not ſwear, will help to bring in King *James*.

Sir *Robert Howard.*] The Lords ſent a Bill firſt—Be pleaſed to obſerve one thing; the Lords ſent down great inſtructions in it, and one thing of extraordinary uſe. Thoſe that take not theſe Oaths, are underminers of the Government; and then, by their Amendments of our Bill,

Bill, to countenance the not taking them, is to me a contradiction. A Penalty on the King, for not tendering the Oaths, would be too high a thing for us to impoſe; but to put the King to believe he has ſome that are not good Subjects, (as the Lords put the King upon that opinion) and that, upon their Leaders ſcruple, they are not free to the Allegiance, is a kind of Sermon from them againſt the Allegiance, and a Doctrine practiſed by us. They are underminers of the Allegiance, that make it leſs ſure to oblige them. An Oath (which they ſcruple) is an end of all Controverſy; this is as if ſome would be in that Controverſy, and not take the Oath. The inſtance the Lords give of Queen *Elizabeth*, is a very wild Precedent. The Lords have given you no manner of Reaſon why you ſhould comply with their Amendments—And, to put the King to believe, that his Subjects are not part of his Subjects.

Col. *Birch.*] I believe there is more in theſe Reaſons, that we ſee not, than we ſee. If we are not exceedingly well armed for a Conference, which will go about the Nation, we ſhall be injured.

[The Lords Anſwer was diſagreed to, and a free Conference was deſired.]

At the free Conference. The Earl of *Nottingham* managed for the Lords.

Sir *George Treby.*] The Difference of the Houſe of Commons, *&c.* is great; but not ſo great, when the matter is underſtood. The Commons tender an Amendment, *&c.* requiring the Biſhops to take the Oaths, *&c.* Your Lordſhips, inſtead of that Clauſe, appoint the Oaths to be taken before perſons, by Order of the Council; to which the Commons cannot agree, and have ſent to your Lordſhips for this Conference, to make their Reaſons more intelligible. Your Lordſhips admit the Oaths to be taken, *&c.* and ſooner than the time, *&c.* No Queſtion is, or can be, but our Allegiance is due to the King and Queen. At the laſt great free Conference, your Lordſhips alleged, the Throne was filled, and no Allegiance—But the Throne being now filled, we have now to think how to oblige thoſe perſons, by ſacred ties, to the King and Queen. It falls out, that the

the perſons chiefly concerned in this are the Clergy. The ſtrength of all Government is unity and uniformity in Allegiance; and he is no farther a Subject but as he owes Allegiance to his Prince. The wiſdom of the Common Law requires early Allegiance in Court-Leets. Afterwards, when affections were aliened from the Prince to foreign Powers, there was ſomething to ſtrengthen that by a Statute. This Allegiance has been oppugned by ſome perſons, and we hope it will be confirmed by your Lordſhips Concurrence. We follow all the methods of that Statute—Your Lordſhips anſwer, "It is better the Oaths be tendered openly than privately."—To which we anſwer, That the Judges cannot, by Order of Council, authoriſe giving the Oaths by authority of Council judicially—Your Lordſhips ſay, "the not taking them, within the time limited, ſhall amount to a refuſal."—Whether a man have reaſonable cauſe to be abſent, is a matter of conteſt——To the other Amendments: The Commons deſire preſent Security for the Government; a preſent Security is neceſſary againſt undermining the Government; and if the Oaths are to be adminiſtered by Order of Council, perſons may conceal themſelves. If the time limited be too ſhort, the Commons will cloſe with your Lordſhips for longer. Your Lordſhips ſay, "If the perſon be thought ill-affected, the Oath may be tendered ſooner;" but thoſe ill-affected perſons may be infecting the reſt: And the Council ought to ſecure all men from malevolence of the Crown—We anſwer to that of the Statute of Queen *Elizabeth*; What your Lordſhips refer to is the Oath of Supremacy. There was a diſtinction between thoſe that owned the Supremacy, and thoſe that did not; and that can be no parallel to our caſe. To live religiouſly and happily, is well; but we muſt firſt live. This Oath is our being.

Earl of *Nottingham.*] We agree the neceſſity of all Duty and Allegiance, by all perſons, to be paid to the King; the difference is in a very narrow compaſs; we only differ in the method. I ſhall not repeat the Lords Reaſons, only in anſwer to *Treby*, there is no other method left to oblige them to take the Oaths ſooner than this propoſed by the Lords, before the firſt of *Auguſt*. —I differ from *Treby* about the Oath of Allegiance and Supremacy; they that would deny Queen *Elizabeth*'s Supremacy, did aſſert the powers of depoſing and excommunicating her to be exerciſed

erciſed as much as the Pope could do; and the Oaths of Allegiance and Supremacy were as neceſſary to be taken then, as this is now. And therefore the Lords take ſo good a pattern now, as that, which was ſo ſucceſsful and happy then.

Sir *George Treby.*] The compariſon was made only in reſpect of the Places they ſhould forfeit. I did ſay, "yet the Judges could not do it judicially," which makes it part of the Authority of the Judges; they muſt give the Oath privately; not as Judges, but as perſons nominated by the King in an afternoon, or in any other place than the Court. There is a diſtinction between the two Oaths made by the Books—

Sir *William Williams.*] The Queſtion will be no more than, Whether the Oaths ſhall be adminiſtered in public, or in private. In Court it will be a Record; it reſts from whence this diſtinction muſt proceed. The conſcientious men, in this caſe, are the dangerous men; theſe hands are but the tools which are ſet on work, and there are no means to diſcover theſe but by Oaths. There is more reaſon to impoſe them on the Clergy than on other men, becauſe they have a greater tenderneſs in taking them, from ſome ſecret reaſon. The Oaths, in Queen *Elizabeth*'s time, were more to diſtinguiſh Proteſtant from Papiſt; that Law was made for the illneſs of thoſe times. If in King *James*'s time there had been one method for the Commons, and another for the Clergy, there were ſome ground for this now; but there was one method for both then; one form both for Allegiance and Supremacy, of the ſame nature. I agree, your Lordſhips method is the ſooneſt way, but it is more certain and plain when it is known. It looks to us, as if there was a little tenderneſs to the Biſhops, and as if a power in the King to order the taking or not taking the Oaths. I deny not but a Parliament may do any thing; but this looks like a caſe of binding the Laity one way, and the Clergy another.

Biſhop of *Saliſbury**, Dr *Burnet.*] The whole danger of the Government may lie upon this—If ſome ſay the King is an Uſurper, he

* I was the chief Manager of the Debate in favour of the Clergy, both in the Houſe of Lords, and at the Conferences with the Commons. But ſeeing it could not be carried, I acquieſced the more eaſily; becauſe, though in the beginning of theſe Debates I was aſſured, that thoſe who ſeemed reſolved not to take the Oaths, yet prayed for the King in their

he is within the Statute of Treaſon—All the Clergy, in the Common Prayer, pray for King *William* and Queen *Mary*. In the Communion ſervice there is a proteſtation of fidelity; if they omit that Prayer, they are puniſhable; by the Act of Uniformity they are tied to it. Can it be imagined, that the Clergy will ſo ſolemnly pray thus, and not obey the King and Queen? This is more than an Oath, which is but one ſingle Act; this is done every day; they themſelves pronounce the words in the Sacrament ſervice.—As for the objection of taking it in open Court, a few words may provide againſt that—The Act of Supremacy was in *Henry* VIII's time. The firſt invention of it was not in Queen *Elizabeth*'s, but qualifying it for Sir *Thomas More*, and Biſhop *Fiſher*—Then they fell under that Oath upon refuſal. Though ſome of the Church of *Rome* have renounced the conſpiracy of *Mary* Queen of *Scots* againſt Queen *Elizabeth*. We never ſhould extend that power, when we conſider, that men have ſpeculations they cannot be rid of—This proceeds from ſuch a ſuppoſition that may be ſpeedily puniſhed in attempting to overthrow the Government. Now, whether you will not leave this to the King? And there is no reaſon to ſuſpect the Crown in its own ſafety. The eyes of all *England* are upon this matter—The Lords are of opinion they have made ſo much a better ſecurity to the Government than what you have made, that they hope you will agree with them.

Sir *Henry Goodrick*.] Since this makes a diſtinction to a few, it will be ſo much diſcouragement to this Law that it may weaken it. There are a ſort of men that either will not pray for King *William* and Queen *Mary*, or [talk ſo] in common converſation, that their Pariſhes apprehend ſomething ill for the Government lies hid in it. Diſcrimination in our Church is highly pernicious—Now when we comprehend Diſſenters, and we leave ſo great latitude to the great lights, the Biſhops, it may prove fatal. It is ſaid, "the Clergy acknowlege the King and Queen, *&c.* in the Common Prayer." I anſwer, if it was not already ſcrupled—ſo few Diſſenters from us—Therefore I hope you will not encourage them againſt the Lords and Commons of *England*. In Queen *Elizabeth*'s time, the Nation was half Proteſtants and half Papiſts, and a proſpect of a Popiſh Succeſſor in *Mary* Queen of *Scots*—This will do no good unleſs to contribute to farther difference—Your Lordſhips may well

their Chapels; yet I found afterward this was not true, for they named no King nor Queen, and ſo it was eaſy to gueſs whom they meant by ſuch an indefinite deſignation. I alſo heard many things that made me conclude they were endeavouring to raiſe all the oppoſition to the Government poſſible. *Burnet*'s Hiſt. Vol. II. p. 9.

accept

accept this difference the Commons have made—Papiſts, for the moſt part, will take the Oaths of Allegiance, but not of Supremacy—Shall it be ſaid that any of our great Biſhops make uſe of Arguments of the Papiſts? In ancient time, there were ſuch accounts of the Biſhops foreign Allegiance, that there is a vaſt apprehenſion of ſuch a precedent tye to King *James*, as the Court of *Rome* had formerly on the Biſhops. I hope you will make this refuſal *Præmunire* in the Clergy.

Sir *Thomas Lee*.] If your Lordſhips had ſo mended the Bill as to the caſe of Offices, as you have done in that of the Clergy, the Commons might have leſs objected. The great thing inſiſted on is Queen *Elizabeth*'s time—The Clergy upon refuſal of the Oaths, *&c.* were deprived immediately. The Commons have rather followed the Precedent of King *James*'s time. It may fall out, that perſons may be ſurprized, and it will be a great hardſhip that the Oath ſhould be tendered to ſome, and not all, and no ſuſpicion on particular perſons. Were more noble Prelates in here with your Lordſhips, we ſhould have leſs ſuſpicion of any apprehending Allegiance to King *James*.—The height of danger to the Kingdom is in the higheſt ſtation to the Kingdom.

Earl of *Pembroke* *.] The ſenſe of the giver is no more than obedience according to Law. Why may it not be expreſſed, "obedience according to Law? And they take it in the giver's ſenſe, and leave it to the King,

Mr *Somers*.] Since all loyalty ought to be without diſtinction, if you will make that Law effectual, thoſe who execute it themſelves are the moſt effectual; they are obliged in intereſt to take it, or forfeit all. But if left to others to tender it, many ways may be found to evade it, inſtead of having this Law take its full effect. It concerns the Government to know who the perſons are, that doubt the owning the Government. This Oath was ſo framed

* Soon after ſent Ambaſſador to the States-General, Colonel of Marines, firſt Lord of the Admiralty, and in 1691 appointed Lord Privy Seal: He was firſt Plenipotentiary at the Treaty of *Ryſwick* in 1697, in 1700, Lord Preſident of the Council, and in 1701, Lord High Admiral. B, Queen *Anne* he was continued at the head of the Privy Council, and was appointed Lord Lieutenant of *Ireland* in 1707, and Lord High Admiral in 1708, which he reſigned two years after. This noble Earl made that admirable collection of ancient Marbles, *&c.* now preſerved at *Wilton*, and died in 1732. He was Grandfather to the preſent Earl.

by

by your Lordſhips with that great moderation, wherein there is nothing but plain promiſe of obedience.

Biſhop of *London*, Dr *Compton* *.] The Queſtion ſeems, why it ſhould not be in the power of the King, for the quiet of the Government, to tender theſe Oaths, &c. Forcing theſe Oaths will rather diſturb mens paſſions, and make mens minds more uneaſy.

Sir *Henry Goodrick*.] We find this is only a promiſſory Oath, and in the ſame form as that of Allegiance was formerly.

Biſhop of *Saliſbury*.] This makes no diſcrimination of perſons deſigned. It is a notion in the world, that there is a great difference betwixt ſubjecting to a Government, and ſolemnly recognizing a Government, the deſign being only to ſecure the Government from danger.

Earl of *Pembroke*.] Nothing is ſo hard to judge of as Conſcience, why he can do it, or not do it. The Clergy are men of Conſcience, and have ſuffered, and perſons may follow their example; you would not willingly ſee them ſtarve. They are put under the power and care of the King, and do not turn them begging, for their Conſciences, by Deprivation.

Sir *Thomas Lee*.] The King has opportunity to take care of the Clergy; but exempting them will be an encouragement to the Lay-men. There is no way to bring all *England* of a mind, but this.

Sir *Henry Goodrick*.] The Commons propoſe nothing but what was in the 7th of King *James*. Seeing your Lordſhips will exempt the Clergy from the Laity, it deſerves farther conſideration in the Houſe of Commons.

Earl of *Nottingham*.] 'Tis not now, that the Lords make diſtinction of perſons. The Lords, in Queen *Elizabeth*'s time, were exempted, &c. ſo conſiderable it was, for the quiet of the Nation,

* Uncle to the then Earl of *Northampton*, and firſt a Cornet in the Horſe-Guards, but afterwards taking Orders was ſucceſſively Maſter of *St Croſs*, Canon of *Chriſt-Church*, Biſhop of *Oxford* in 1674, & of *London* in 1675: On King *James*'s Acceſſion he was diſmiſſed from the Council-Board for having oppoſed his meaſures, and in 1686, he was ſuſpended from his Epiſcopal Function for not ſuſpending Dr *Sharp* (See p. 38. Note) On the P. of *Orange*'s landing, he eſcorted the Princeſs *Anne* to *Nottingham*, and afterwards voted for the Vacancy of the Throne, &c. In 1691, he attended King *William* to the Congreſs at the *Hague*, and died in 1713, aged 81. As to his Character, he was peculiarly ſtyled "the Proteſtant Biſhop," for the ſtand he made againſt Popery both in the Reign of *Charles* II. and *James* II.

from the formality of the Oath they ſcrupled. If it be left to the King, the danger is not ſo great as repreſented.

[*April* 23, Omitted.]

Wedneſday, April 24.

Sir *Robert Howard.*] The Duke of *Schomberg*, one of the greateſt Captains in the World, under his Majeſty, the then Prince of *Orange*, has had his Eſtate and Penſions all ſeized in *France*, and he has waved all things in this World to ſerve you and his Religion. He has been ſollicited by the Duke of *Brandenbourg*, and the Emperor, to be their General. He has quitted all, to ſerve this King and Kingdom; hither he comes, and the King is not in a condition to reward him, otherwiſe than with the honour of Knight of the Garter. The King's condition is not equal to his deſires to reward him. There cannot be a greater misfortune than to loſe ſo great a Captain. I hope the Houſe will do ſomething for his fortune, as the King has done for his honour.

Mr *Hampden.*] I think this Motion is of conſequence, and no good *Engliſhman* can let it fall. The merits of this great Perſon in the World are well known by the reſpect of Princes to him. If there be occaſion, his ſervice may be of great uſe, being the greateſt Captain in *Europe*. Therefore I wiſh you would propoſe ſomething the King may do for him. You cannot give it to him, but you may preſent the King with it, and deſire his Majeſty to diſpoſe of it to him.

Mr *Garroway.*] I have as high eſteem for Marſhal *Schomberg*, as any body—Though we have no preſent uſe of him, yet we may have. But how to raiſe Money upon the people, and have that immediately given to Marſhal *Schomberg*, I know not that Precedent. When we raiſe Money for the Navy we may repreſent his merits to the King in that Bill, and make him ſuch a preſent as may encourage him to be farther ſerviceable to the Nation.

Sir *John Guiſe.*] I doubt not but if you declare thoſe who aſſiſt King *James*, Rebels and Traytors, that the King, out of their Eſtates, will give a reward to Marſhal *Schomberg* for his ſervice.

Sir

Sir *Thomas Clarges.*] I have as great a ſenſe of this man's ſervice to the Nation as any in the Houſe, or any where elſe. I hope we ſhall not intend to preſent this man to the King to be conſidered by him, but what ſhall be thought of or adviſed to enable the King to gratify this honourable Perſon. No man is againſt it, but, as you have been told, there will be forfeitures of ſuch as have violated the rights of the people, and are in actual Rebellion. When you take the Indemnity into conſideration, you will do it. The King's brother, the Duke of *York*, had an Eſtate given him out of the confiſcations of the miſcreants who were attainted; and I hope the King will give him ſome reward out of the Eſtates of thoſe who are in Rebellion againſt the Government.

Mr *Harbord.*] The King told me, "That he had told Marſhal *Schomberg*, that he being not in ability to gratify him, he would recommend him to the conſideration of this Houſe;" and I doubt not, on *Monday*, you will find out ſome way to do it. 'Tis not fit the Nation ſhould bear the burden, when theſe men have been the occaſion of your misfortunes. We ſhall not be welcome into the Country, if we raiſe no money upon theſe eſtates.

Sir *Thomas Lee.*] I would not trouble you now, were I not afraid of Precedents. You are told by *Harbord*, "that the King has had Marſhal *Schomberg* under his conſideration." I am ſurprized that the Motion was not earlier. I remember, when there were great commendations of General *Monk* here, for what he had done, then the methods were, the King gave them rewards and lands, and the Parliament confirmed him afterwards. I would have it from the hand it ought, and I hope the Crown will be maintained always in that plenty as to be able to do it. It will be beſt for the Marſhal, and beſt for you.

Mr *Garroway.*] It has been moved that this acknowlegement may be given Marſhal *Schomberg* out of the Eſtates of Offenders, *&c.* I move you, that the King may be addreſſed to iſſue out his Proclamation, that they appear by a day, or elſe they ſhall ſtand outlawed; and their Eſtates ſeized as confiſcate to the King.

Sir *Chriſtopher Muſgrave.*] When Gentlemen ſeem to be of opinion that no Queſtion ſhould be ſtated till Gentlemen have an inclination to ſtate it, it ought not to be.

I have a great honour for Marſhal *Schomberg*, but you are out of the way, if you put a Queſtion, that we ſhall take upon us to recompenſe him for his ſervice; that is a Prerogative only of the King. We are only to enable the King to gratify ſuch perſons, and I move you for the Order of the Day.

Sir *Henry Goodrick.*] This Houſe is poſſeſſed of the great merit of this Gentleman, as all the Proteſtants of *Europe* are; but to lay this Debate aſide now, I am againſt it. They did give great gratuities to Generals in former times, when we had no King in *Iſrael*; but we cannot uſurp that Prerogative: Therefore for the preſent I would have it on your Books to acknowlege this Gentleman's great ſervice to the King, and to enable the King to ſettle a grateful acknowlegement on this great Man.

Mr *Hampden*, jun.] I hope you will not go off from this Motion without leaving ſomething on your Books. *Ireland* is not to be reduced without a General; and this is the greateſt General in *Europe:* He is uſed to conquer Kingdoms. *Portugal* by him was reſtored to the right owner †. You will uſe him for *Ireland.* Pray put not this Debate off without having ſomething upon your Books.

Sir *Richard Temple.*] I find, all reſolve to return him thanks for the great ſervices he has done the King and the Nation, and that you will recommend him to the King. Therefore pray put the Queſtion.

Sir *Thomas Clarges.*] I fear, this may be of dangerous conſequence, to put ourſelves in competition with the King in giving rewards to perſons. I remember but one Precedent, and that was in the brother of a King, the Duke of *York.* 'Tis dangerous to be on your Books.

Sir *Thomas Littleton.*] Now this has been a Debate, to let it fall may be of dangerous conſequence. If we recommend him to the King, we may enable the King to gra-

† The King of *Portugal* ſent Count *Schomberg* to oppoſe the *Spaniards* and though the Count *de Villa Flor* had the Title of General, he owed the Preſervation of his Crown entirely to the former. This great Captain obtained ſeveral victories over the *Caſtilians*; and it may be ſaid, that he had leſs difficulty to conquer them than to overcome the obſtinacy of the *Portugueſe* General, who, being envious of his glory, traverſed every deſign which he thought would augment it. But *Schomberg* had the Confidence of the Court, and of the Troops, who followed chearfully a Commander always attended by Victory. Vertot's *Revolutions of* Portugal.

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tify him. If we let it fall now, it will be very ſcandalous upon us.

Sir *Henry Capel.*] 'Twill be of dangerous conſequence for this Houſe to gratify particular perſons. Sir *George Booth* had a vote of 10,000 *l.* given him. The times indeed were different. This perſon is ſo eminent, that you can have no ill conſequence of it *.

The Debate was adjourned to *Monday*.

The Lords ſent ſeveral Letters to the Commons, intercepted by Duke *Hamilton* in *Scotland*, and ſome Letters to the Duke, *&c.*

The Lords ſent a Meſſage to deſire a preſent Conference on the Bill of Oaths.

The Speaker.] The laſt being a free Conference, the Lords ſhould ſend now for a free Conference. Poſſibly the Meſſengers are miſtaken in their Meſſage. I think, you are to ſend an Anſwer by Meſſengers of your own.

Sir *Chriſtopher Muſgrave.*] This may lead you into great inconveniences. I have not obſerved the like. The Lords come and demand a Conference; ſuppoſe the Lords offer you ſomething in writing, and you conſider of it; you demand a Conference of the Lords; and ſo you go ſtill backwards, if after the Conference will follow a free Conference.

Reſolved, That a Meſſage be ſent as follows: The Commons having received a Meſſage from the Lords for a preſent Conference, upon the ſubject-matter of the Bill of Oaths, the Commons conceive, that to deſire a Conference, after a free Conference on the ſame ſubject, is not agreeable to the Methods of Parliament.

[The Lords (upon this) ſent to deſire a free Conference, which was agreed to by the Houſe.]

Sir *George Treby* reports, from the free Conference, That the Lords have agreed to the Amendment of the Clauſe with this Proviſo,

* This great General ſoon after this Debate went over to *Ireland*, at the head of an Army of 10,000 men, and the next year fell triumphantly at the Battle of the *Boyne*. "It was his peculiar Merit (ſays an excellent Writer) to have been more than once employed in the Defence of Nations in danger of loſing thoſe Liberties they had with difficulty retrieved; and to have completed tha Character by dying at laſt, full of Years and multiplied Honours, in the ſame Employment, on behalf of theſe Proteſtant Kingdoms of *Great Britain* and *Ireland*." Hughes's *Preface to the Tranſlation of* Vertot's *Revolutions of Portugal*. *Burnet* ſays, "That the Parliament gave the Duke 100,000 *l.* for his ſervices." This however was never paid, but in lieu of it 5000 *l.* a year was ſettled on him and his heirs.

" That it be left to the King to allow ſuch of the Clergy, not exceeding twelve, as ſhall refuſe the Oaths, an Allowance, for ſubſiſtence, not exceeding one third part of the value of their preſent income, during his Majeſty's pleaſure." The Lords did it as an expedient, and you may pleaſe to receive it, and make it your own.

Sir *Thomas Lee.*] The Lords were told, " That this was unuſual, and not in the uſual methods of Parliament."

Sir *Richard Temple.*] There is no objection againſt it, but that it is not in Parchment. The Lords depart from what they had done, only with theſe Amendments.

Sir *Thomas Lee.*] Becauſe the Lords will pleaſe you, they have ſent it you both in Paper and Parchment. You ſend Amendments, and the Lords ſend Amendments to your Amendments: They withdraw their Amendments, and give you other Amendments; where will be the end of this? Either entirely agreed, or their Amendments inſiſted on. But the Amendments are of a foreign nature.

[The Proviſo was thrice read, and agreed to by the Houſe, to be made part of the Bill. And the Bill was ſent up to the Lords.]

[*April* 25 *, 26, and 27 Omitted]

Monday, April 29.

Richard Janeway, the Printer, was brought to the Bar, for printing the Addreſs brought in by the Committee (and not agreed to by the Houſe) for a War with *France*; who, being interrogated, ſaid, " That Mr *Fraſer* licenſed the Book. He had the Copy, and hopes he ſhall not be put upon it to declare of whom he had it; and that he had anſwered the Law when he carried it to the Licenſer, and had entered it into the Book of the Company at *Stationers-Hall.*"

Sir *Chriſtopher Muſgrave.*] I think, the Honour of the Houſe is much concerned in this matter. He refuſes to anſwer you, and I hope you will ſend him to *Newgate.* If Perſons take upon them to publiſh an Addreſs of the Committee, and not paſſed in the Houſe, I hope they ſhall be ſeverely puniſhed; and I would have *Fraſer* ſent for.

* This day the Houſe addreſſed the King to enter into a War with *France.*

Lord

Lord *Falkland.*] If you refuſed printing your Votes, the Honour of the Houſe is as much concerned in this; and I hope he ſhall be ſeverely puniſhed.

Mr *Montagu.*] I think, the Honour of the Houſe is not concerned in this; the Title-page relates to the Committee only, and the Houſe was not poſſeſſed of it.

Sir *Joſeph Tredenham.*] I think, the Honour of the Houſe is concerned. 'Twas under the conſideration of the Committee, and the Houſe rejected it. Is not this appealing to the People? The Houſe rejects what the Committee agreed. To have this impoſed on you is extremely to the diſhonour of the Houſe.

Mr *Boſcawen.*] I cannot but ſay that *Janeway* has broken the method of the Houſe, but not willingly; for 'tis licenſed and entered. If he had thought it a crime, he would not have done it; but there was no Order to the contrary. It being entered, 'tis no ſuch ſecret; every man may ſee and have it. Have not Votes been printed in *Gazettes*, and you take no notice of it? This Paper is an invective againſt the *French* King, and that is the thing which touches ſome ſo near. If you go any farther in this, you will do yourſelves no right.

Mr *Garroway.*] I look upon the printing this Paper to be of another conſequence than I have heard ſaid yet. Some time ago the names of Members were printed that voted; this Paper can be for nothing but diſcriminating Parties; it is a plain Appeal to the People, and arraigning your actions. If you let this man go free, men will be afraid what to do; pray leave him to a Juſtice, by his authority to be examined. In the mean time, commit him to the Serjeant.

Col. *Birch.*] I cannot tell whether Gentlemen are in earneſt in this buſineſs, more than for *France* formerly. I know it, and it pleaſes me mightily—The man (as he thought it to be Law) went to the Licenſer; when you have heard the Licenſer, the one and the other, then you may proceed. In Queen *Elizabeth*'s, King *James*'s, and *Charles* I's time, Gentlemens ſpeeches were printed; they were not printed all of a ſide. This is no novelty; it has been ancient.

Sir *Henry Goodrick.*] If you have done well, why ſhould not the Paper be printed? If ill, you are put under a cenſure abroad; but as for this man's anſwer at the Bar, it is inſolent, and I would have him puniſhed. But why may not a man print a Paper, an invective againſt *France?* I know no reaſon. If the Paper had engaged you in an offenſive War—but this is defenſive only. The thing in itſelf is not uſeleſs, but very uſeful: This coming in a ſilent way, 'tis no prejudice to the honour of the Houſe; but this paſſing in a legal form to the Preſs, I would enquire how this perſon came by it. This very Addreſs, agreed by the Committee, could not come to this man's hand, but by ſome of the Committee. But I would not have that reflection upon any of them; the exceſs may have the ill conſequence to puniſh your Committee for ſhowing this Paper to a friend. I move you to appoint a day to have the Licenſer at the Bar, to anſwer his venturing to licenſe any Paper relating to you, without your Order, as a Treſpaſs upon your authority. This fellow deſerves rather your compaſſion than puniſhment. I never ſaw a more deſpicable figure of a man.

Sir *Chriſtopher Muſgrave.*] I am ſorry the poverty of the man is pleaded, who gives you an inſolent anſwer. I wonder this ſhould be thought a uſeful Paper, that you have rejected. I would commit *Janeway*, the Publiſher, to the Serjeant, and ſend for the Licenſer.

Mr *Foley.*] I can ſee but one crime in this man, and that is, the printing the Paper. 'Tis moved, to commit him for not anſwering you, *&c.*—The Paper is in your Books, and that is a Record free to any acceſs. It will be a great reflection on the Houſe to puniſh this man. You have laid this Addreſs aſide, and therefore it is a crime to publiſh it. You can puniſh him for nothing elſe.

Mr *Arnold.*] This is an unfortunate man. He lay in priſon in King *James*'s time for printing Books againſt Popery, and now that he has printed againſt the *French* King, pray diſmiſs him.

Sir *Thomas Clarges.*] If this is not a breach of your Privilege, you cannot puniſh him for it; but for a man to ſay this is againſt *France*, and you puniſh him! But 'tis not fit that all our Reaſons for the War ſhould be put in Paper, and

ſent

ſent about the world, and put the King upon declaring particulars, and never to come to a Peace with *France*, unleſs all the Affairs of *Chriſtendom* are ſettled according to that Paper. His anſwering you ſo unmannerly is an aggravation of his fault; had he told you who brought this Paper to him, it would induce ſome compaſſion; but ſeeing he has not, it is an aggravation of his fault, and I would commit him.

Ordered, That *Janeway* be committed to the Serjeant, *&c.* and that Mr *Fraſer*, the Licenſer, do attend this Houſe to-morrow.

Mr *Colt* informed the Houſe of a ſcandalous Pamphlet entitled, "*Hoc eſt Parliamentum*," (called in the Journal, "*A ſhort Hiſtory of the Convention, or a new chriſtened Parliament.*")

Mr *Hampden.*] Theſe Papers are ſtill printing, and there are copies of them abroad.

Mr *Garroway.*] The Privy-Counſellors have officers and meſſengers that will diſcover theſe Printers.

Mr *Boſcawen.*] Theſe Papers diſturb the peace of the Nation, and invite people to ſtir up in arms. We ought to be ſenſible how this reflects on the Houſe, and yourſelf, Mr Speaker. I am ſorry we ſhould paſs this over in ſo much ſilence. I would have it burnt by the hands of the Hangman. If you leave it, as ſome Gentlemen move, to be enquired, after ſuch reflections, you will forget yourſelves.

Sir *Robert Howard.*] Probably *Janeway*, for ſome reward, will find out the Printer.

Sir *Joſeph Tredenham.*] I would have you go farther than cauſing it to be burnt, *&c.* I would have an Addreſs to the King to reward the diſcoverer.

Ordered, That the above Paper be burnt by the hands of the common Hangman to-morrow, in *Palace-Yard*, &c.

Tueſday, April 30.

A Bill, from the Lords, making it Treaſon, from ſuch a time, to hold correſpondence with the late King *James*, to aſſiſt with Money, *&c.* to adviſe, plot, or contrive to withdraw any Officer or Soldier from the ſervice, *&c.* was read the firſt time.

Mr *Garroway.*] I find, people have earneſtly moved to have this Bill read, and now it is read, I hope we ſhall take

take time to conſider it. I ſhall ever be tender in conſtructive Treaſon to corrupt blood. One thing I obſerve, that it makes Mutiny Treaſon; if it be from diſorders, when Soldiers are drunk, you will make a great many Traytors for their drink. I would well conſider it.

[The Bill was ordered to be read a ſecond time.*]

[*May* 1†, 2, 3, 4, and 6, Omitted.]

Tueſday, May 7.

On ſome hot words that paſſed betwixt Capt. *Bertie* ‡, and Mr *Harbord.*

Mr *Hampden*, ſen.] I have taken notice of ſome angry words betwixt theſe two Gentlemen. I move that they may ſtand up, man by man, and engage, upon their honours, not to proceed farther in this difference.

Col. *Mildmay.*] I hope that you will not put it upon your Books, that a quarrel has been here, and your Votes to be ſent abroad.

The Speaker.] Let both the Gentlemen ſtand up at one time, and no priority, or precedency, in the Declaration.

Mr *Harbord.*] The Gentleman (Mr *Bertie*) is of too much honour to engage one that has not the uſe of either of his hands. If I have been ill-uſed, I cannot paſs my word not to proceed farther, without ſatisfaction; therefore, pray conſider with yourſelves what you have to do. It is a hard thing for me to acknowlege I have received an injury, and require no reparation for it.

Sir *William Williams.*] If Mr *Harbord*, ſaid, "There were Penſioners in the Long Parliament," your Books ſay ſo, and any man may.

Sir *Chriſtopher Muſgrave.*] I am ſorry for the occaſion of this Debate. As *Harbord* is a man of honour, ſo he has expreſſed great honour relating to the other Gentleman. But we ought to declare, what was the occaſion of the miſunderſtanding; and, I hope, theſe honourable Perſons will declare they will proceed no farther.

* It was rejected at the ſecond reading, *May* 4.
† This day there was a ſea-fight in *Bantry Bay.*
‡ Brother to the Earl of *Lindſey.*

The

The Speaker.] The two Gentlemen ſay nothing; you muſt lay the commands of the Houſe upom them to declare.

Mr *Harbord.*] I do not conceive myſelf injured at all.

Mr *Leveſon Gower.*] I think theſe Gentlemen both men of honour. 'Tis out of their power to proceed any farther. The Houſe will take care they ſhall not do it. Therefore they may declare.

Mr *Bertie.*] I apprehended *Harbord* reflected upon me as a Penſioner. I thought I was reflected upon about the Election at *Weſtbury.*

Mr *Hampden*, ſen.] I heard the words of "Penſioner—Parliament." I remember, Sir *Stephen Fox* had Queſtions put to him upon every Member of the Houſe about receiving Penſions. (*See Vol.* vii. *p.* 323.)

Mr *Garroway.*] The whole thing theſe Gentlemen ſtand upon is a Punctilio, who ſhall ſtand up firſt and declare. I would write both their names, and put them in a hat, and let them draw out who ſhall declare.

Sir *Chriſtopher Muſgrave.*] This is a tender point before you, and nicety in the thing. I offer it, that both may come to the Table at the ſame time, and there underwrite, "That they will not proſecute the quarrel any farther."

Mr *Bertie.*] If *Harbord* will ſay he intended no perſonal reflection upon me, I will be ſatisfied.

Col. *Mildmay.*] Punctilio of Honour is a great point; but it is the general opinion of the Houſe, that no words were ſpoken of particular reflection by *Harbord*, but generally as the Parliament-Men were called over. So many judgments having paſſed, methinks theſe Gentlemen ſhould be more free, without putting the Houſe or themſelves to farther trouble. If not, you may make uſe of your authority.

Mr *Colt.*] The depth of the matter lies upon what will be diſcourſed without doors; therefore I am for your Members coming to the Table, as has been moved.

Mr *Hampden*, ſen..] I think, it is equal for both their Honours. I apprehend, Mr Speaker, that it is your part to make an Order, "That being informed of ſome angry words betwixt theſe Gentlemen, upon which a quarrel may enſue, they be taken into Cuſtody." This is your duty, that no miſchief may enſue.

The

The Speaker.] 'Tis no diſhonour to put theſe perſons under reſtraint, for it is your Work and Order; and then friends may interpoſe.

Mr *Harbord.*] Do you think impriſoning me would frighten me to petition for releaſe? I do not think myſelf injured, and can it be thought a man of my age would quarrel when I am not injured? If you do commit me, what will become of the King's buſineſs?

Mr *Herbert.*] I would have you very careful what ſort of Queſtion you put. One declares, "he does not think himſelf injured:" He has done it. All know there were Penſions, and if *Bertie* had thought himſelf injured, he ſhould have complained. I would have them both ſtand up, and declare, as has been moved.

Lord *Norreys**.] I remember the caſe of *Weſtbury*. I have heard *Bertie* ſay, "If *Harbord* will declare he meant not him, he is ſatisfied."

Mr *Harbord.*] I have heard it ſaid, as if the thing ſeems too nice; it is not that at all. I could tell tales, if I were provoked, on the other ſide.

Sir *Henry Capel.*] I am concerned for both theſe honourable Gentlemen; one has been my friend theſe many years, the other is related to me; but it is the Houſe muſt be judge of one and the other. As for that of Penſions, it has been univerſally ſpoken of, and will be ſtill, that the Government may not be under any corruptions whatſoever. Firſt, *Harbord* ſays, "he is not injured;" therefore, if *Bertie* will ſay, "he apprehends himſelf not reflected on."—Or rather that the Houſe vote there is no injury done—

Mr *Harbord.*] To put an end to this, write down what I ſhould ſay, and I will ſay it, and obey you.

The Speaker propoſed theſe words to be ſpoken by the two Gentlemen, *viz* "I do promiſe, upon my word and honour, not to proſecute any quarrel, upon this occaſion;" which was accordingly done.

* Eldeſt ſon of the firſt E. of *Abingdon*; to which title he ſucceeded, on his father's death, in 1699. In Q. *Anne*'s reign, he was Conſtable of the *Tower*, and had other high employments, as he had alſo in the reign of K. *George* I. He died without iſſue in 1743, and was great uncle to the preſent Earl.

Wedneſday,

Wedneſday, May 8.

A Bill for eſtabliſhing the Articles preſented by the Lords and Commons to their Majeſties, and for ſettling the Crown, was read the third time.

Mr *Godolphin.*] After the Limitation, in the firſt place, upon the King, Queen, and her Heirs, and Princeſs *Anne*, *&c.* when this Limitation is ſpent, where will you go next? Where ſhall the Crown devolve, all theſe dying without Iſſue? Therefore I humbly offer this Proviſo: "Provided always, and be it hereby declared, That nothing in this Act is intended to be drawn into Example, or Conſequence, hereafter, to prejudice the Right of any Proteſtant Prince, or Princeſs*, in their hereditary Succeſſion to the Imperial Crown of theſe Realms."

Mr *Garroway.*] You are upon a high point. I do believe, this Proviſo was brought in by this Gentleman with a good intention; but, whether it be full enough not to break into the Limitation of the Act?—'Tis more expreſſive than the word "hereafter." I would not leave any loop-hole in the Bill, for any to come to the Crown that you intend not. God knows how ſoon any body may die; therefore I would not leave it at large. Thoſe who expect a Common-wealth in *England*, by failure of thoſe you have named, I would diſappoint them all. But if there be any umbrage, that the thing is not full, I would have it ſo, and ſhall agree to it.

Mr Attorney *Treby.*] This Proviſo does not well agree with the Bill. He that ſpoke for retaining the Proviſo, ſays, "He reſpects nobody by it in particular in the Bill, but to clear the matter of the Succeſſion hereafter." Therefore I think the Proviſo is uſeleſs. Nothing, 'tis true, is appointed in the Bill, farther than the Entail upon the perſons named; and I ſuppoſe (as the Law does) that thoſe you have named ſhall have Iſſue; but if they have not, the Common Law provides for it, which is, the right Heirs of the Royal Family: But when you ſay, "a Proteſtant Prince, *&c.*" it ſeems to exclude the right Heirs that are not; and to ſay, as in the Proviſo tendered, "This ſhall not be drawn into Example;" 'tis

* In the Journal it is "Princes."

only

only a caution and admonition, that this flattering Proviſo will not bind up their Power. Rather than have a hand in any thing of a Republic, I would have loſt my hand. Where there is a great Territory, and a warlike People, as the *Engliſh* are, Monarchy is a Government fit for that part of the World; the experiment of a Common-wealth will be impracticable. This Bill leaves the deſcent of the Succeſſion to the Common Law, and no otherwiſe; let them be what they will, Proteſtants muſt be in the Succeſſion; and ſo they will, without this Proviſo.

Mr *Hales*.] In this Bill, you have not thought fit to go farther than the preſent King, *&c.* and in no Acts of Succeſſion farther than the Iſſue of perſons in being: But if you take the word "hereafter" not to preclude any Proteſtant that has Right to inherit, it will comprehend the Prince of *Wales*, if he turn Proteſtant, and he may challenge the Crown again. The words are excluſive to Papiſts already, and there is no reaſon to clog the Act with this Proviſo: Therefore I would reject it.

Mr *Ettrick*.] I have ſeen the Proviſo, and I believe there is no deſign in it of favouring the Prince of *Wales*. If the Throne be vacant, this goes to take away the rightful Succeſſion of other Princes, and is an Abdication to the whole frame of the Government. If there be no Heirs of thoſe in the Entail, you have left the Government to the People. You have great reaſon to countenance all vindication of yourſelves from a Common-wealth; and therefore I think the Proviſo fit to be received.

Sir *Chriſtopher Muſgrave*.] As to the arguments of the word "hereafter," if ſubject to ſuch interpretation, then you would do well to amend it with the word "hereafter." I would have no doubt to affect the Limitations of the Succeſſion in the Bill.

Mr *Hampden*, ſen.] I never heard of this Proviſo before. As it is penned, no Gentleman can be for it; and when it is mended, nobody can tell whither it will extend. You have already the Bill to eſtabliſh the Government, and all people ſubmitted to it, and you ſit here by it; and now you are going over again to what you

you did ſo many months ago. You have provided againſt all Popiſh Succeſſors, and now you are going about to do it a-new. I do believe, this comes from the agency of ſome foreign Miniſter; and do this now in a new Bill, and then you muſt let the King, the Queen, and Princeſs *Anne* be heard. Why was not this ſpoken of ſooner, in all this time? And now to enter into ſuch a matter of State, now to bring in this, to put a doubt upon all you have done already!—I am againſt it.

Mr *Godolphin.*] I hear it ſaid, "Poſſibly this Proviſo comes from the agency of ſome foreign Miniſter." I would have it known, I never took meaſures from any foreign or domeſtic Miniſter. It looks, by the Proclamation, as if Dominion was founded in Grace—*(and reads the Proclamation.)* Here is no notice taken of the Right of the Princeſs of *Orange*'s Title, but of her Merit only *. That the Monarchy might be looked upon as hereditary, and not elective, was my motive to bring in the Proviſo.

Sir *Thomas Clarges.*] I conceive, the inducement to bring in this Proviſo, is, becauſe the Limitation of the Succeſſion is very looſe. There is no certainty of the life of any man; and I would not have the Kingdom fall into a Common-wealth; which it may, if the Limitation, *&c.* goes no farther. I heard a Gentleman ſay, "We did not wiſely, not to keep things in our hands when we had them." This is one reaſon, why I would have the words added that are moved: Inſtead of "hereafter," "after the Limitations here mentioned."

Mr *Sacheverell.*] If there be any other perſon to be put into the Limitation of the Succeſſion, pray let us know him, and not put this in general.

Col. *Herbert.*] I ſaw a Letter of a Siſter of Prince *Rupert*'s, wherein ſhe was complaining of great hardſhip done her children, that they were not regarded in the Entail of the Crown; therefore I move, that they may be mentioned.

Sir *Henry Capel.*] By what has fallen from the Gentleman, you ſee, foreign Miniſters have been doing in this matter; but you have it anſwered already, "That the

* "Whoſe zeal for the Proteſtant Religion will, no doubt, bring a bleſſing along with her upon this Nation." *See the Proclamation.*

Heirs

Heirs at Common-Law are aſſerted to ſucceed, for default of thoſe in the Entail." I have heard it talked, as if King *William* was King by Divine Right, and Dominion founded in Grace; then you had beſt put the Queſtion, Whether the King be King, or not? Is not the Clauſe in the Proviſo, "of not drawing it into Example," arraigning all you have done already? In the Long Parliament, when the Court was carrying on their great deſigns of Popery and Arbitrary Government, Gentlemen that oppoſed it were called Common-wealths-men; and we are told of "the Rebellion, and 1641, and cutting off the King's head," and all this for oppoſing the Court's deſigns, when they were about to deſtroy our Religion and Liberties. It can never be a Common-wealth. When the Succeſſion in *Henry* VIII's time was turned this way, and that way, it was put into the King's power to ſettle the Succeſſion by his Will: And where were the thoughts of a Common-wealth then? The firſt part of the Proviſo is a reflection upon you, for omitting it before; and the ſecond there is no need of, or whether the Prince of *Wales* comes in by it—Either a foreign Miniſter is in it, or a ſtratagem from *France*; and I would throw it out.

Sir *Chriſtopher Muſgrave.*] I know not why we are told of "*France*, and foreign Miniſters." If we have not liberty to ſpeak, let us go home. I know not what thoughts other Gentlemen have of the Prince of *Wales*; I have none: But I know we have had a Common-wealth, and a Rebellion in 1641 alſo. If the thing be capable of Amendment, it ought to be retained; and 'tis the Right of every Gentleman to bring in a Proviſo.

Mr *Godolphin.*] I defy any man to prove any ſuch thing as "correſponding with a foreign Miniſter," or that I manage "a ſtratagem from *France*." Turn me out of the Houſe, if that be proved. This Proviſo was ſuggeſted to me by no man.

Sir *Henry Goodrick.*] When I hear this fatal rencounter we have had with *France*, and then theſe reflections here, and that we may go into the Country,—theſe expreſſions are made here, with a ſuppoſition that we have no liberty of ſpeech; but this, ſaid at this time, when the *French* are upon us, and who have had too much influence here; and

and we are told of 1641. After the admonition of the Speaker, nothing but the Vacancy of the Throne, and the not Vacancy, occaſions this buſineſs; and are we returning to "vacant," or "not vacant," upon our Petition of Right? And whoever ſpeaks againſt it, doubts the Government. The Common-Law leaves all to the Right of the Succeſſion, and there let us leave it.

Lord *Falkland.*] I diſapprove of the Proviſo, as it is brought in; but it may be mended, ſo as to juſtify your proceedings abroad. 'Tis ſaid abroad, you have ſettled the Government upon the King and Queen; 'tis true, they have no children, and the Princeſs of *Denmark* none that have lived, though married a great while; ſo there are but three lives for it; if it ſhould happen that theſe ſhould die without iſſue, where is the hurt of this Proviſo? Fortify the Proviſo againſt the tale of the Prince of *Wales.* You have Proteſtant Princes abroad, and the more you ſettle this, the more you protect them.

Mr *Hawles.*] Now I underſtand, by mending the Proviſo with the word "hereafter," I am more againſt it than I was at firſt. There has been talk of "Government founded in Grace," but much more miſchief if founded in Right. This queſtions the whole Government. There is not one word in the Act that can prejudice any foreign Succeſſor; but this, by a ſide-wind to come in, makes me ſuſpect it. When the City-Charter was queſtioned, the King's Counſel againſt it ſaid, "'Twas a Commonwealth in a Commonwealth;" therefore I am not for this Proviſo thus introduced.

Mr *Somers.*] I think there is no hurt in wholly leaving out this Proviſo. In the caſe of *Henry* IV, it was a ſolemn Judgment, that the Throne was vacant, and then it was ſettled on the King's ſons, and no farther by name; for it would come into its own channel by ſucceſſion of deſcent. In the Life of *Henry* VII, Lord *Bacon* reckons it as one of the wiſeſt actions of his reign, that he limited the Crown no farther, but left it to deſcend. Let us tread in the ſteps of our Anceſtors; you have declared the Vacancy of the Throne; but to do this now, would bring a ſuſpicion upon what you have done: Make your Succeſſion ſo founded on Grace, that none

but Proteſtants ſucceed. This ſtrikes at the whole foundation of what you have done. Therefore lay it aſide.

Mr *Paul Foley.*] This Proviſo is of too great importance to be brought in by a Rider. 'Tis not fit, on the ſudden, to take any farther proſpect of the Limitation of the Succeſſion by a Rider, but refer it to a farther conſideration.

The Proviſo was rejected.

[*May* 9, 10, and 11, omitted.]

Monday, May 13.

The Houſe was informed that Sir *Henry Monſon* [Member for *Lincoln*] attended according to Order*.

Mr *Garroway.*] Before you call him in, pray make ſome Order how to hear him, whether in his Place; and what puniſhment you will inflict upon his refuſal of the Oaths.

Sir *Thomas Clarges.*] If he will not take the Oaths, he cannot be a Member, and ought not to have a Place here.

Sir *John Thompſon.*] I hope you will be as tender to your Members, as the Lords are to theirs. If he has not ſat, I know not how he is culpable—The Biſhops have three months time to conſider, *&c.* and I hope you will give him that indulgence.

Sir *Thomas Littleton.*] We are no Court of Juſtice, but we may diſpoſe of our own Members: But if he refuſes the Oaths, you may ſend out a new Writ to chuſe one in his place.

Sir *Thomas Lee.*] If your Members refuſe to take the Oaths, their place is void; but, as for giving him time to conſider of it, it appears not yet that he refuſes them, I believe, in ſome time, you'll ſee the Government will be obeyed; and in a few months you may ſee how the Parliament will deal with ſuch as are not of the ſame Allegiance. Therefore I would give him time.

* Notice had been taken, two days before, that Sir *Henry Monſon*, and Lord Viſc. *Fanſhaw*, though they were reſident in or about the City of *London*, had abſented themſelves from the ſervice of the Houſe, ever ſince the Oaths were enjoined to be taken; and they were therefore ſummoned to attend this day. *See the Journal.*

The

The Speaker.] You cannot hear him in his Place, neither is it proper that he anſwers at the Bar, being yet no Criminal; therefore let him come up to the Table, to be tendered the Oaths there.

Sir *Henry Monſon* was then called in, and the Speaker thus ſpoke to him:

The Houſe having taken notice that you have ſtaid a great while about the town, and have not tendered yourſelf to take the Oaths of Allegiance, and the Teſt, as you ought to have done, hath ſummoned you to take them.

Sir *Henry Monſon.*] I am ſorry I cannot comply with taking the Oaths, to qualify myſelf to ſit in the Houſe, for particular reaſons, ſuch as no way tend to the diſturbance of the Government; and I do ſubmit myſelf to the pleaſure of the Houſe. *He withdrew.*

Mr *Arnold.*] He knows that the refuſal of the Oaths is a Crime at Common-Law, and by Statute-Law. I would have him made an example.

Mr *Edward Montagu.*] I know him to be an honeſt Gentleman, and as well inclined to the Government as any man. In *Charles* II's time, he voted for the Bill of Excluſion, and deported himſelf very well. What his particular Reaſons are for not taking the Oaths, I know not.

Mr *Pelham.*] I believe, as has been moved, you cannot regularly commit him, and if any man have a title to your favour, he may. No man went better in the former Parliaments; and I beg that no farther mark of your diſpleaſure be upon him, than to diſmiſs him from your ſervice.

Sir *Thomas Clarges.*] I never knew an honeſter man; both the ſon, and the father, true public-ſpirited men. I have ſat long in Parliament with them. You know what the Statute directs in this caſe of refuſing the Oaths; therefore I would not enlarge your juriſdiction farther than ſending a new Writ to chuſe another Member in his place.

Mr *Leveſon Gower.*] I have ſat in ſeveral Parliaments with this Gentleman, but I did not expect this from him. I would have him ſent for in again, and a little time given him to conſider.

Reſolved, That Sir *Henry Monſon* be diſcharged from being a Member of the Houſe.

Lord *Fanſhaw* then came up to the Table in the ſame manner.

Lord *Fanſhaw.*] I have been under a long indiſpoſition; and though I have been about town, in the evenings, yet I was under a courſe of phyſic and diet; and ſince I was abſent, an Act has paſſed; and being not qualified by taking the Oaths, I could not properly appear here.

The Speaker.] But, my Lord, are you willing to take the Oaths now you are here?

Lord *Fanſhaw.*] I muſt give a plain Anſwer to that Queſtion: I am not ſatisfied to take the Oaths. *He withdrew.*

Sir *Thomas Littleton.*] I ſuppoſe the Houſe will take the ſame courſe with Lord *Fanſhaw*, that they did with Sir *Henry Monſon.*

Reſolved, That Lord *Fanſhaw* be diſcharged from being a Member of the Houſe

He ſerved for the Borough of *St Michael's*, in *Cornwall*, upon an Election, undetermined, depending.

Tueſday, May 14.

[In a Grand Committee.] On the Heads for a Bill of Indemnity*.

Sir *William Williams.*] I ſuppoſe you indemnify all crimes, and all mankind, unleſs perſons and things excepted.

Sir *Richard Temple.*] Take the Act of Indemnity of *Charles* II before you, and then you will ſee the Exceptions. I would extend them to as few as may be. It will be neceſſary to make ſome examples of thoſe who have endeavoured the ruin of their Country and Government.

Col. *Auſten.*] I believe that, though perſons within theſe walls may be concerned, it will be done with all worth; but let things find out perſons.

Sir *Thomas Clarges.*] That Act of Indemnity of 25 *Charles* II, I hope, may be the better Precedent. Con-

* The King thought, nothing would ſettle the minds of the Nation ſo much as an Act of Indemnity, with proper Exceptions of ſome Criminals that ſhould be left to Juſtice. *Jeffreys* was in the *Tower*, [he died three ſoon after,] *Wright*, who had been Lord Chief Juſtice, and ſome of the Judges, were in *Newgate*; *Graham* and *Burton*, who had been the wicked Sollicitors in the former reigns, were in priſon: But the hotteſt of the Whigs would not ſet this on. They thought it beſt to keep many under the laſh; therefore they proceeded ſo ſlowly in the matter, that the Bill could not be brought to a ripeneſs during this Seſſion. *Burnet.*

ſider,

ſider, firſt, what Exceptions you will make; and next, what ſhall be pardoned; and next, conſider that of 12 *Charles* II.

Mr *Sacheverell.*] Crimes of State are never to be forgiven. Name what Crimes are not pardonable, and they will find out the perſons.

Mr *Carter.*] If I take it right, the King has given us ſome meaſures. If offences againſt the Government are ſo far in the dark, you will never find out perſons. There is ſome diſcourſe, without doors, that if we go about things, we ſhall ſet the whole Nation on fire. I hope the King's direction will be moſt acceptable to the Nation.

Sir *Robert Howard.*] I would willingly hear that Act read; and many things in it muſt be in this: But there are new-invented crimes in this age, that this Act cannot reach. We muſt go by things and men, and then by ſuch things and men as no age ever ſaw. I know we have a large field of things and men: Things of the worſt nature are the largeſt field; therefore conſider the nature of things; and if I ever move in favour of thing or man, I will tell you the reaſon, and unleſs ſome merit induce me to it.

Sir *Richard Temple.*] I agree with *Howard* in all but his laſt Motion; not that I am an Advocate for any perſon, but for the whole Nation, if things involve many you would not. Treaſons are always excepted in any general Act of Parliament. If we go to perſons, we ſhall agree, for we all know them; if to things, we are in a wood, and ſhall never get out of it; and I deſpair that the Act will ever come to good. I would put mens minds in peace, and make examples only of notorious inſtruments.

Sir *Henry Capel.*] If it be the ſenſe of the Committee, that all ſhall be forgiven, I am content; but what we do, is for ſatisfaction of the Government, not that any Gentleman can be pleaſed with this. I think to begin with things; and, to prevent heats, I take this idea; as if in the country, they complain of hardſhips from the Judges, men of the Robe, who throw duſt in the eyes of Juries; ſo if you take conſideration of crimes againſt

the Laws, and the Government, uſe the reſt with what moderation you pleaſe, either by fines, or otherwiſe; and begin with things.

Sir *Joſeph Tredenham.*] Conſider of what conſequence it will be to make a multitude of Offenders. There are many Offenders, and you know who they are. We know the great men that have offended in the open light. There is no other end in this Bill, but to reconcile mens minds to the Government; and thoſe you declare obnoxious, and it is no ſeverity upon them, we know. When *France* was in Combuſtion, 'twas the great care of *Henry* IV to puniſh ſome, and leave the reſt in ſome degree of favour. I deſire, therefore, that you will proceed againſt perſons that have been the moſt notorious Offenders.

Sir *Robert Cotton.*] The King has ſent a gracious Meſſage to us about an Act of Indemnity. No Government can be ſo ſecure, as when ſatisfied that they have a gracious merciful King. I know the conſequence of the beginning of the laſt Government. Thoſe in the *Weſt* did ſee ſuch a Shambles *, as made them think they had a *Turk*, rather than a Chriſtian, to their King. If you proceed that way, of e nquiring into things before perſons, you will leave ſuch jealouſies in people, as that they will not think themſelves ſafe; it will go ſo large, I fear it will hazard the peace and ſafety of the Nation. The great wheels, the *primum mobiles*, that have gone ſo violently, and brought us into this Confuſion, I move that you will proceed againſt them, and that the King's gracious intentions may have farther effect, and thoſe only excepted.

Mr *Harbord.*] I hope you will not pardon any of thoſe crimes condemned by Law already: They that changed their religion. You are hard put to it, to find out Money. Great men of 8, or 10,000 *l. per ann.* I hope, may help you. You puniſh men that do not take the Oaths and the

* After *Monmouth*'s Rebellion, *Jeffreys* was ſent the *Weſtern* Circuit, to try the Priſoners. His behaviour was beyond any thing that was ever heard of in a civilized Nation. He ſhowed no mercy, and hanged up in ſeveral places about 600 perſons. And the King took pleaſure to relate his proceedings in drawing rom, and at table, calling it "*Jeffreys*'s campaign." *Burnet.*

Te ſt

Teſt, and will you not puniſh thoſe who have renounced God Almighty? I move they may be excepted.

Mr *Harley* *.] I think the King in his Meſſage has led us, and ſhowed us how to proceed for ſatisfaction of Juſtice. *There is a crime*, God ſays, *he will not pardon*, innocent blood. A Gentleman ſaid, "The *Weſt* was a Shambles of their quarters;" and what made that Shambles? It began in Law. It was the common diſcourſe amongſt the Miniſters, that the King cannot have Juſtice, and, in order to that, began the violation of the City-Privileges, in the choice of their Sheriffs.

Sir *Robert Howard*.] In thoſe that were perverted and changed their Religion, it was Treaſon. Suppoſe you name the man, there muſt be an appendix of his crime; and muſt that man be a ſacrifice for that particular thing? So whatever man you name, you muſt name the thing. If there muſt be ſo general a forgiveneſs of all, you muſt go equal. You muſt either take notice of all, or forgive all things, that the invention of times has found out of equal nature. In the Bill for repealing Colonel *Sidney*'s Attainder, you repeal the murder, but not a word of the murderers: Shall it be excuſed upon direction of the Judge? We know what we did with Ld Chief Juſtice *Keeling* †. Try one way firſt; name any one man, by experiment, upon any one head.

Sir *John Lowther*.] To reduce matters home, without foreign examples; we had often occaſions for general pardons, formerly, when families thruſt one another out of the Throne, and then there was great need of pardons for the ſubject. When Lord *Strafford* was charged in Par-

* Son of Sir *Edward Harley*, and Speaker in the two laſt Parliaments of King *William*, and the firſt of Queen *Anne*. In 1704 he was made Secretary of State, which he reſigned in 1707. In 1710, he was appointed a Lord of the Treaſury, and Chancellor of the Exchequer. The next year he was created Earl of *Oxford*, and ſoon after was appointed Lord High-Treaſurer, which place he reſigned four days before the Queen's Death. In 1715, he was impeached of High Treaſon by the Houſe of Commons, and was ſoon after committed by the Lords to the *Tower*; but being tried two years after was unanimouſly acquitted by his Peers. *Burnet*'s Character of him at this time is as follows: "*Harley* was a man of a noble family, and very eminently learned; much turned to Politics, and of a reſtleſs Ambition. He was a man of great Induſtry and Application; and knew forms and the Records of Parliament ſo well, that he was capable both of lengthening out and of perplexing Debates." He died in 1724, and was Great Uncle to the preſent Earl.

† See Vol. I. p. 62 & 67.

liament, and other great exorbitancies, though the crimes and offenders were many, yet it was agreed, that ſuch a number ſhould be named, who ſhould be excepted out of the general Indemnity. We are reſolved, that theſe ſhall be proſecuted by the Attorney-General, and we need not deſcend into particulars here; but by general ideas, and ſo excepted.

Mr *Hawles.*] I am for excepting perſons by particular names; but we are now only upon methods. Certainly, upon things, you intend not to pardon murder, nor robbery, *&c.* but now if you enquire into things, you will utterly deſtroy the Government, which in King *Charles* II's, and all King *James*'s time, was as ill as the *French* Government. Inſtance in *Corniſh*'s Tryal, one of the moſt barbarous Tryals *! Had I been concerned in it, I ſhould have thought I deſerved death as much as *Vrats*, that killed Mr *Thynne*. Make it, that the Indemnity ſhall not extend to ſuch and ſuch perſons, or ſuch and ſuch things.

Sir *Richard Temple.*] If you name the crime, you may involve more than you think of. Do you mean every man that had the leaſt ſhare in it? I mean only the notorious perſons. Perſons have had pardons, and you muſt void all thoſe pardons before you can reach them; you muſt not hunt the herd, you will never ſingle any. I would begin with the Chancellor †, a Lawyer, and he to deſtroy all Law! I would except him from pardon in his honour and lands.

Sir *Henry Capel.*] To anſwer *Temple*, he ſays, "If you proceed upon things, you will engage thoſe you would not;" but are not you maſters of your own methods? To

* [At the beginning of King *James*'s Reign] ſome baſe men tried to ſave themſelves by accuſing others. *Goodenough*, who had been Under-Sheriff of *London*, when *Corniſh* was Sheriff, offered to ſwear againſt *Corniſh*; and alſo ſaid, that *Rumſey* had not diſcovered all he knew. So *Rumſey*, to ſave himſelf, joined with *Goodenough*, to ſwear *Corniſh* guilty of that for which Ld *Ruſſel* had ſuffered. And this was driven on ſo faſt, that *Corniſh* was ſeized on, tried, and executed, within the week. If he had got a little time, the falſhood of the Evidence would have been proved from *Rumſey*'s former Depoſition, which appeared ſo clearly, ſoon after his Death, that his Eſtate was reſtored to his Family, and the Witneſſes were lodged in remote priſons for their lives. *Corniſh*, at his Death aſſerted his innocence with great vehemence, and with ſome acrimony, but a juſt indignation, complained of the methods taken to deſtroy him *Burnet.*

† *Jeffreys*, then in the *Tower*.

anſwer

anſwer *Lowther*, if we are to except nothing but Treaſon, we are in a Parliamentary way, and may declare Treaſons. As for the ſeizing Charters, there was nothing like that; that cuts up all your Liberties by the root.

Mr *Garroway*.] I am at a ſtand what I ſhall offer for your ſervice. If you go to capital crimes, you will be tender, and go but a little way. I would not dabble in blood; I would, from my heart, forgive them, but from pecuniary penalties I would not exempt them. You turned two out of the Houſe yeſterday, for refuſing the Oaths. You will not think ſuch a man fit for employment. Upon the firſt Head, reſolve what you will make capital, then for fines, and not to bear Office for the future.

Col. *Auſten*.] I hear it ſaid, "that people guilty of theſe great crimes, are known;" but I lived in a ſphere, at ſuch a diſtance, I could not know them. The work has been done by a Spirit in the dark, and unleſs you conjure down this Spirit, you will never attain your end. Here has been ſomething ſaid of a Proclamation, *&c.* I would ſet up marks of ſeverity for public Juſtice; this is part of the King's directions. I would diſtinguiſh the things, and let the perſons be who they will.

Sir *Chriſtopher Muſgrave*.] I muſt confeſs, I am unfit to ſpeak in a buſineſs of ſo great weight. I think there is a neceſſity to proceed upon perſons, and not things, becauſe you are told, from the Bar, "that poſſibly the Offences may not be Treaſon, by 25 *Edward* III, but by your legiſlative Power, you may proceed by Attainder." If ſo, then proceed as tenderly as you can, becauſe 'tis a declaration of Treaſon, and is always made as little uſe of as poſſible. For this occaſion your Bills of Attainder will be without number; therefore I move that you will proceed upon perſons, and not things.

Col. *Birch*.] I think it abſolutely neceſſary that you come to ſome concluſion before you riſe. I would not leave the matter under an alarm, but, before you riſe, leave them to what they ſhall truſt to. If things muſt find out perſons, you are in for a great while. Methinks you may go a nearer, and a ſurer way; for when you come to an Act of Oblivion, I ſuppoſe, (I dare not impoſe) you reſolve to name your number capable of ſuffering Life or Limb, ſuppoſe

poſe twenty, or forty, or as many as you will, (I am but for a ſmall number for Life or Limb) and that blank be filled up; and, for all others, though not excepted for Life or Limb, yet I would except them from bearing any ſhare of the Government. The thing I drive at and deſign, is, to make an end. After putting in "Life and Limb," he may ſay, "I ſhall eſcape without an Office." Put a certain number, and you will put the Nation out of fear, and you have done your work.

Sir *Robert Howard.*] When you name Heads, let it be under death, fine, or incapacity of bearing Office; then you will be eaſier under all the Debate.

Mr *Hampden*, ſen.] Where mercy is to be ſhowed, I ſhall be as forward as any man, but I think Juſtice is neceſſary. If you go on in this way, you will hardly come aſhore. If you enumerate all ſorts of crimes, you will go the farther from your end, they are ſo many, and of ſo many ſorts; one of the greateſt crimes that ſtruck at your Foundation was that of Blood. But the Foundation of theſe things was laid ſo early, that it will be a great way to look back. How many are concerned in the greater degree, and how many in the leſs, as *particeps criminis?* This will be a very long reſolution. Now whether the men, or names of crimes, ſhall be firſt? To ſave a friend, that will be impoſſible to wreſt out of human nature, but your end is to terrify men for the future. What is elſe the end of decimating armies? When the Act of Indemnity paſſed in 1660, (perhaps in as great a Revolution as ever the Nation was under,) you ſet down ten, or twenty, (I will not offer the number now) excepted for life, and ſo many for pecuniary mulcts, and incapacity of Offices, according to degrees of crimes.

Sir *Henry Capel.*] I am neither afraid of Sea nor Wood to enter into; will not you except the bloody Judges? And thoſe who were of opinion for the Diſpenſing Power? When you have paſſed the Vote, cannot you except what perſons you pleaſe?

Mr *Harbord.*] There is a great difference betwixt the Biſhop of *Rocheſter*'s* Caſe and the Chancellor's, a great inequality; and therefore they ought to be weighed in the Ballance.

* Dr *Sprat.*

Sir

Sir *John Lowther.*] I believe it impoſſible to name crimes before perſons; the ſeaſon of the year cannot admit it. If you enquire into circumſtances, the firſt promoter and adviſer, if you keep this in ſuſpence, it will be the greater diſſatisfaction; therefore I am for naming perſons before crimes.

Mr *Garroway.*] I am ſtill of the ſame opinion that you will ſooner come to your end, by voting Heads on capital offences, and then go to your men. I am not for forty nor fifteen, but put it upon that Head, "not exceeding ten;" you may have gueſſes at names, and put in, as in the laſt Indemnity, the greateſt number. If named openly, there may be misfortunes and feuds of families hereafter.

The Speaker.] *Garroway* miſtakes. There was no ſuch balloting as he mentions. In the Convention, it was only for ſending Gentlemen to go Commiſſioners to the King into *Holland.* Then for excepting perſons out of the Act, the firſt Vote was, "but ſeven for Life, and twenty more for other pains and penalties," and thoſe were nominated in the Houſe.

Mr *Hampden*, ſen.] I riſe only to rectify *Powle.* All the Regicides in the Act of Indemnity, 1661, were notified by the crime; the reſt, for other offences, were deprived of bearing Offices. Many of the Houſe may remember there was a long Debate upon the perſons upon whom the Proclamation went out; it was a great Debate, whether they ſhould be hanged, or not, becauſe the Act ſaid, "they ſhould not be pardoned."

Reſolved, That it is the Opinion of this Committee, That, in proceeding upon the Bill of Indemnity, the Crimes ſhall be firſt declared, for which ſome Perſons ſhall be excepted, for vindication of public Juſtice. Agreed to by the Houſe.

Mr *Harbord.*] I am ſorry for the misfortune of Lord Chief Juſtice *Herbert.* I told you before, there would be tenderneſs. There is a great neceſſity for Money, and can you do better than ſupply the Crown by theſe mens Eſtates?

Sir *Richard Temple.*] If you proceed by Impeachment, or Bill of Attainder, you muſt expreſs all their crimes. If you will go upon all the Heads in the paper, (I am no advocate

vocate for any body) you will involve a great part of the Nation; therefore go upon the firſt Queſtion.

Sir *Chriſt. Muſgrave.*] I appeal, whether the whole Debate to-day was not upon things, and not perſons? And therefore your firſt Queſtion muſt be, whether you will not proceed upon perſons.

Mr *Sacheverell.*] I am againſt that Queſtion, for if it paſs in the Affirmative, you put perſons upon offending again, and cannot ſecure yourſelves againſt others in that Bill. They have taken away Offices, and Eſtates, from particular perſons, and now you will indemnify all thoſe you name. Some examples I would have, and not many, that they go not on to do again what they have done. For death I agree with the ſmalleſt number, and the fines not extravagant; and thoſe who have betrayed their truſt, not to be truſted again.

[To proceed on *Thurſday.*]

Wedneſday, May 15.

A Bill, from the Lords, for exempting their Majeſties Proteſtant Diſſenting Subjects from the penalties of certain Laws, and the Commons Bill for Liberty and Indulgence to Proteſtant Diſſenters, were both read the ſecond time.

Mr *Hampden*, jun.] You have read two Bills, that from the Lords, and that of ours; you always reſpect a Bill from the Lords, the Judges and Biſhops being there preſent; you uſually take that from the Lords. As for Indulgence to Diſſenters, it is every man's ſenſe, and little needs to be ſaid to that. The Empire of Religion belongs to God; men may be forced and conſtrained, without other effect than to deſtroy the Country where it is done, and dip people in Blood. In what Country ſoever that is done, it has proſpered accordingly. Look into *Hungary*, the diviſions of that Country being deſperate by perſecutions; *Tekely* called in the *Turk:* I hear now the Emperor is willing to give ſome Indulgence to the Proteſtants there, which will preſerve that Country. You ſee the number of Refugees that come hither out of *France* for Protection. The *Dutch*, our Allies, were at firſt ruined by ſeverity in Religion, and the *Spaniards* loſt *Holland*

by

by it, but ſince they have had Indulgence, they have proſpered, and ſo will they ever where the people live uneaſy. In *Charles* II's time, the perſecution of Diſſenters made them leave the Land. I hope thoſe that have need of it, have ſerved this Government well, and may do ſo ſtill. As to the Lords Proviſo, of "none to have the benefit of this Indulgence, who deny the doctrine of the Trinity," I hope we ſhall never give encouragement to Atheiſm, and Infidelity. In the beginning of the Bill, there is a good orthodox repreſentation of Faith; but, I am afraid, by obliging people to declare the abſtruſe points of coequality and conſubſtantiality, we may awaken what is aſleep, the *Socinian* and *Arian* Controverſy: I fear, if a Creed be brought in, though ever ſo orthodox, by ſuch a Precedent, of making Creeds, in after-ages they may add new to diſturb the World. In framing the *Nicene* Creed, there was great animoſity; the *Arian* party got it, and then the orthodox, which diſturbed the World; and then the *Nicene* Creed was made, and when it would not be received, the ſecular Arm was called in to defend it, and the burning them upon it gave the Precedent to all the Chriſtian World, of burning Hereticks afterwards. Never was there ſuch a thing, for a Parliament of Lay-men to make a Creed for ſubſcribing of theſe perſons. Never was a Precedent of ſuch a thing before. I am againſt it.

Sir *Thomas Clarges.*] The Lords Bill is full of nonſenſe and tautology; poſſibly, *vitium ſcriptoris*; there are penalties in it not to the King, to nobody, *John-a-Styles*. *Hampden* is much miſtaken in the Doctrines of the Creed; they are the very words taken out of the Syſtem of *Cromwell*'s Parliament. This Creed is in expreſs terms the ſecond Article of the Church of *England*; Preſbyterians, Independents, Quakers, all agree in it; only inſtead of the word of "God written," they would have "written by Divine Revelation." In the Lords Bill, "to ſubſcribe to the Doctrine, *&c.* take the Oaths, ſubſcribe the Teſt, *&c.*"—Let the miſtakes in ſenſe be corrected, and I agree to have it paſſed entirely. But I obſerve this is a ſetting up Altar againſt Altar, therefore I would have it but a temporary Bill, that by perſuaſion they may come over to us; but we muſt pray and preach them down, as in my Pariſh there

there were four Conventicles, and now they all come to Church. I would have both the Bills committed.

Mr *Sacheverell.*] For committing both theſe Bills you have been moved well. In amending the Lords Bill, take out of yours what will be for your uſe, which will make that a good Bill.

[The laſt Bill was ordered to be committed.]

On Mr *Papillon*'s Report from the Committee, upon the 300 *l.* penalty, *&c.* for forfeitures.

Mr *Boſcawen.*] 'Tis uncertain whether men have qualified themſelves, or not; and ſome have not the Money to pay. You cannot be certain without an Account from the Clerk of the Peace.

Sir *Chriſtopher Muſgrave.*] At the Committee you did not impower them to be Chancellors of mens abilities. It cannot be that *London*, *Middleſex*, and *Weſtminſter*, will not amount to above 200,000 *l.* I know not elſe where you will find the Money, and the King will want it. 'Tis ſo palpable and groſs, that no man can believe it.

Sir *William Pulteney.*] The Houſe ordered the Committee to bring in names, to the intent the perſons might be found to pay it. We, of the Committee, had no information of mens abilities; ſome are dead, and in others regulations are put in.

Mr *Garroway.*] The preſent neceſſity, and eaſing the Counties, put you upon this, as one way for the ſervice of the King's preſent occaſions. When you bring in a Bill, and put the proof upon them, that they have taken the Teſt, *&c.* then you will hit them off, and find them. You have made proviſion for half a year, and hereafter you may provide for the other ſix months; we may ſatisfy ourſelves that we are out of danger for the preſent, and I hope a good Account will be brought in.

Mr *Hampden.*] I doubt we are too wide in the Account of theſe things, that you will have a good Account of from the Officers of the Exciſe. And it will be hard you will not let them plead the benefit of a Law.

[*Reſolved*, That it is the opinion of the Committee, That the forfeitures in the ſeveral Counties be eſtimated, and may produce 348,000 *l.* wherein *Bedford*, *Devon*, *Lincoln*, and *Cardigan*, are not included, their Liſts not being brought in.]

Thurſday,

Thurſday, May 16.

Debate on the Heads for a Bill of Indemnity reſumed.

Grievances in King *James*'s time were read.

Mr *Harbord.*] The greateſt offender of all the Peers is turned Papiſt, Lord *Saliſbury.*

Mr *Boſcawen.*] According to this head, the capital offender is dead [Lord Chancellor *Jeffreys*] I would therefore have him attainted, and his Eſtate reduced to the ſame condition as when he began to offend, and his poſterity incapable to ſit in the Lords Houſe.

Col. *Birch.*] That which lies heavieſt upon the Nation, is Blood; you have ſeveral Bills to reverſe Attainders. I would have ſome Blood, though little, rather than be ſtained with what they have ſhed.

Sir *John Lowther.*] I know not how far you will proceed, whether with all equally criminal. I ſuppoſe you will make diſtinction of thoſe who gave opinion for the Diſpenſing Power, and other offences; how far you will proceed upon it I do not know, ſeeing you were tender in not taking away all Diſpenſing Power. They cannot all be puniſhed, therefore ſay how many perſons you will exempt.

Mr *Harbord.*] Begin with the Lord Chancellor. Attaint him firſt. I will ſay ſomething to induce you to it. Sir *Thomas Armſtrong*'s was a moſt barbarous caſe *, and his proceedings in the *Weſt* †.

Mr *Palmes.*] The laſt day, the Committee had order, " that crimes ſhould precede perſons." Determine what crimes ſhall be capital, and what mulctuary, before you begin.

Mr *Boſcawen.*] 'Tis a harder matter to ſay what this man was not guilty of, than what he was. Lord *Ruſſel*'s Tryal before—and after he came into the *Weſt.*—

* When *Jeffreys* came to the King (*Charles*) at *Windſor* ſoon after *Armſtrong*'s Tryal, the King took a Ring of good value from his finger, and gave it him for theſe ſervices: The Ring, upon that, was called " his Blood-ſtone." *Burnet.*

This was in 1684. Sir *Thomas Armſtrong* had met the Duke of *Monmouth* and Lord *Ruſſel*, &c. at *Shepherds*, and afterwards made his eſcape to *Leyden*, where he was betrayed and ſent over by *Chudleigh*, the King's Envoy.

† See p. 246. Note.

Sir

Sir *Robert Howard.*] I think you have a particular engagement to go upon this man firſt. In Sir *Thomas Armſtrong*'s caſe he committed Murder, and without the help of a Jury. By the Statute of *Edward* VI. Outlawries were confined to twelve Months. He came in within that time, and ſurrendered himſelf in Court *; though they alleged he was forced to it; therefore this is a particular caſe.

Mr *Hawles.*] Suppoſe you except a man that is dead, a dead man cannot be tried, nor pardoned. I think it proper to ſay, what perſons ought to be excepted, and when you enquire, you will find the Chancellor very little more guilty, than thoſe who lately paſſed the Proclamation, little leſs than the Diſpenſing Power.

Sir *Richard Temple.*] In the Eccleſiaſtical Commiſſion he was the *ſine quâ non*, and in all the buſineſs of the *Weſt*. If you go on upon the thirty Heads, you will involve more than you intend. I move, "That the late Chancellor and his heirs may be excepted out of the Indemnity, in order to Attainder."

Major *Wildman.*] When I conſider that the Houſe ſpent four hours on crimes and perſons, if you keep your own Order, you are not to meddle with perſons now.

Mr *Harbord.*] I would except out of the pardon all who gave opinions with my Lord Chancellor, for the Diſpenſing Power.

Mr *Garroway.*] I think the Head of the Diſpenſing Power is what you can beſt make out. That is a Breach of their Oath, and a great one, and of that you have the judgment of the Lords and Commons, for breaking their Oaths. In this I care not how narrow; but as for mulcts upon them, I would not deſtroy families, but leave them a livelihood, and no more. For other offences, ſomething may be ſaid in Law, but not for this.

* This being a point of Law, he deſired Counſel might be heard to argue it. *Jeffreys* rejected all this. He ſaid, "the King might either after a Tryal, or not, as he ſaw Cauſe;" and he refuſed to hear Counſel. Which being demanded upon a point of Law, the denying it was thought a very impudent piece of Injuſtice. And when *Armſtrong* inſiſted, "that he aſked nothing but the Law," *Jeffreys*, in his brutal way, ſaid, "he ſhould have it to the full;" and ſo ordered his Execution within ſix Days. And the Law was executed on him with the utmoſt Rigour. *Burnet.*

Sir

Sir *Joſeph Tredenham.*] I cannot be perſuaded that giving the King advice in the Diſpenſing Power be made capital. If we make the words general in the Queſtion, that of ſo many perſons equally guilty, ſome few ſhould be given up for a ſacrifice—I believe it firſt an invaſion of our rights, but the exerciſe of it long became a common error, and, I think, if they are not guilty of ſome other offences, this is not ſufficient. I move that the Queſtion may be a little more diſtinct, and ſay, " as the Diſpenſing Power was of late executed."

Sir *Henry Capel.*] I never thought to have heard an argument within theſe walls for an univerſal Diſpenſing Power. We are ſlaves if it be ſo, and no freer than in *Turky*. We know the King has Prerogatives, but to ſay, " he has a Diſpenſing Power," is to ſay, " there is no Law." He ſays, " this Diſpenſing Power grew in upon us by time;" and is it therefore good becauſe practiſed? The foundation of all our misfortunes is, That the Judges gave their Opinion for the Diſpenſing Power; and I would have them excepted in the Act of Indemnity.

Mr *Hawles.*] The Diſpenſing Power was the laſt Grievance, and a bloody ſacrifice to the Prince's pleaſure, to the ſubverſion of the whole Government. The King might diſpenſe with ſome obſolete Laws, but no Statute ſince two hundred and fifty years ago was diſpenſed with till theſe three or four years. If this muſt paſs for doctrine, we may go home, and the King may raiſe what money he pleaſes, and he may diſpenſe with the Statute *de Tallagio non concedendo*, and raiſe what Taxes he pleaſes. King *Charles* I would have been at it, and had Judges for his turn, who would have exerciſed this diſpenſing Power as well as the Ship-money. Some People King *James* put out of office, though qualified, and ſome were put in unqualified. They began with Diſpenſing with the Act for Hackney-coaches, and by degrees would have done ſo with all the Laws. I am for declaring this very illegal, though not all to be puniſhed alike; for ſome did it out of weakneſs, others out of fear, and not out of the dictates of their judgment. As for the King's Counſel, if the Attorneys and Sollicitors, with tufted gowns, impoſe upon

illiterate men, pardon the illiterate, and puniſh the learned Counſel. Juſt ſo do it; if otherwiſe, you throw up all your Laws and Statutes.

Sir *Robert Howard.*] I would ſerve you with a Queſtion, if I could. The Gentleman who ſpoke over the way, ever gives inſtruction; I am ſure he does to me. This is the doctrine; becauſe a *Non obſtante* may be given man by man particularly, it ſhould be uſed judicially. Forbidding Proteſtant books to be printed, and diſpenſing with Popiſh books, aſſerted and allowed. Here is a general execution armed againſt us; firſt by books, and then by public power. The Papiſts are armed againſt us.—When the *Goths* and *Vandals* over-ran *Rome* by an illiterate ſort of men, *Machiavel* confeſſes there was a ſecret Providence. When theſe men over-ran us, comes the Prince of *Orange* and over-runs all accidents by his prudence, and ſaves us with deliverance from the Diſpenſing Power. But to wind up the Queſtion of Diſpenſing Power, they have done all theſe things to deſtroy, and we muſt look upon thoſe who have given this opinion in judicial places, as fit to be excepted in the Act of Indemnity.

Sir *William Williams.*] There are two parts of the Law, the conſtitutive part in King, Lords, and Commons, and the executive part, *lex loquens*, in the Judges. The other is a tacit Law, and a ſilent Law; they make the Law ſpeak, and men feel it. Is any thing more pernicious than the Diſpenſing Power? There is an end of all the Legiſlative Power, gone and loſt. Right your Legiſlative Power, and your Judicial Law, and all will be ſet right.

[To proceed on *Saturday.*]

Friday, May 17.

Mr *Hampden*, reports from the Committee, ſeveral Amendments made to the Bill of Indulgence.

Sir *Henry Goodrick*] I move you to give no Indulgence to them, who will give no Oath in evidence, but their Yea and Nay, Quakers; now you are about to defend the Kingdom, and theſe men not to aſſiſt you, they may introduce Popery. Have we not known them in *Jeſuits* habits, and were told it by *Oates* and *Bedlowe*? Under this maſk, "according to the Holy Scripture," the (words in

the

the Bill) you hazard the Government both of Church and State.

Mr *Paul Foley.*] This is much miſtaken, that the Bill gives liberty to all perſons. They are not at liberty. They muſt ſubſcribe, and there is a Law in force already to tie them up from preaching againſt the Church of *England*; you are only tying them from teaching contrary to their Subſcription.

Sir *Tho. Littleton.*] I am ſorry to ſee ſome in the Houſe differ from what they were at the Committee: In an incomprehenſible part of Religion, we thought the Scriptures the beſt guide.

Mr *Hampden*, jun.] The Teſt is againſt the doctrine of Popery, which the Quakers take as you do, but to declare Allegiance to their Majeſties is not named, becauſe they own no titles. In *France* there was a Toleration to Proteſtant preachers, and they were not to preach againſt Popery, but they wrote againſt it, and ſo came within the penalty;

Sir *Thomas Clarges.*] The Gentleman Reporter forgets to tell you, that the Quakers ſaid nothing of this at the Committee. "According to the Holy Scriptures," is a large field. They muſt not write nor ſpeak againſt the doctrine of the Scripture; which will be full of controverſy.

Col. *Birch.*] I will offer a few words, and beſeech every Gentleman to conſider that thoſe ways are commonly the beſt, that are moſt trodden. Theſe ſort of people have been in the ſhambles theſe twenty years, and I never thought they would come ſo near us as in this Declaration, and now under a doubtful word, to throw out all that has been done! I am glad theſe Articles of Religion are ſo far agreed to by the Non-conformiſts. I like the Articles of the Church of *England* very well, but the Scriptures much better; the Apoſtles ſtill tried all things by the Holy Scriptures. Having brought the Quakers in ſo far, I hope, in time, we may do it farther.

Mr *Ettrick.*] I am as much for Indulgence to tender conſciences as any body. If I apprehend right, they are not to preach againſt the Doctrine of the Church, as it is in the Articles. As to belief, believing it is as they pleaſe; the only thing to be reſtrained is, not to write againſt it, and that only to be remedied. They ſay, "The Doctrine

of the Trinity is no more to be proved, than Tranſubſtantiation." Reſtrain them, that by writing they may not fill the World with endleſs controverſies and diſputes.

Sir *Robert Howard.*] I am rather of opinion with the Committee, than of the Lords Bill. I have for ſeven years deſired ſuch a Bill without ſucceſs. In this point, you will give occaſion for diſpute and controverſy.—To tell a man, "he ſhall forbear to write againſt a thing," is no hardſhip; but "that he ſhall not believe it," is. The Articles are turned to the Scripture; this is the way to aſk which Manuſcript they are out of; and as for the Holy Ghoſt, they will ſay, 'tis not in Scripture, and ſo they will raiſe endleſs diſputes. I am glad we are ſo large in Indulgence. I am for ſupporting the Doctrine of the Church of *England*, and would have the Proviſo ſo penned, as is taught by the Doctrine of the Church of *England*.

Sir *Robert Sawyer.*] This Bill declares the Profeſſion of Faith in other words; "you ſhall not preach nor write againſt the Church of *England*;" this is only a ſaving to the words; they will ſay, "if we can prove that theſe Articles are not according to the Holy Scriptures, we do not write againſt them." They may inſinuate this. They are at liberty to write or preach, if they can prove they are not according to Scripture—Elſe you will ſet up a new controverſy.

Sir *Thomas Clarges.*] This Bill eſtabliſhes a ſort of Bill contrary to the Church of *England*. I would therefore have it temporary and probational. I cannot foreſee what it may reach to, therefore I would have it for ſeven years only, and to the end of the Seſſion of next Parliament.

Sir *Robert Howard.*] I hope this will bring more to the Church of *England*, than ever were found in ſeven years before. This tenderneſs will bring more than all the perſecution. This is no new thing; it has been upon the anvil theſe ſeven years without ſucceſs. It was brought forward in King *James*'s time, but they could not and durſt not perform it; their Church would never ſuffer it: And now, in the midſt of all this expectation, to daſh it with a temporary Clauſe! You had as good grant them nothing at all; thus to deceive them into an Indulgence,

and

and cramp it with time. Let us throw no cold water upon this warm thing; and pray do not diſturb it with Limitation.

Sir *Thomas Clarges.*] For Gentlemen to ſay, "That the neceſſity of affairs induces this,"—'tis not worthy of a Parliament to ſay ſo. I do not reſtrain it to ſeven years, to diminiſh it; but if we do it, is it not fit for us to limit it? If I thought it not for the Church, and for their benefit too—I deſire the Clauſe may be read.

* * * * *.] To make the thing temporary, will look like deſign. I would have it as large as the Church of *England*, that we may be one in affection, and one in intereſt. All that is ſaid againſt it is, "That an ill uſe may be made of this." I hope the Church of *England* will increaſe daily by it. If they make an ill uſe of it, there will be always enough in this Houſe to take it away. The late King *James* offered them Indulgence, and, like unwiſe men, they ran into it to be deluded: And I look upon *Penn*'s Quakers, who were ſo forward then, to be Papiſts.

Sir *Henry Capel.*] Rather than the Bill ſhould not be effectual, it were better they had none at all. As for what is ſaid of "making it temporary, to ſee how they will behave themſelves," 'tis the only way in the world to make them a dangerous party, and againſt you, to throw this out. In King *James*'s time, they, through neceſſity, did comply; and God knows, in ſeven years, what change there may be; and men, to eaſe their conſciences, what may they do? I would not give them occaſion to throw themſelves out of the Proteſtant intereſt. We hear of a general Indulgence in *Ireland*, and here we are cutting up ourſelves. Let After-Parliaments alter it, if they ſee cauſe; let us paſs it.

Sir *Thomas Littleton.*] There was great reaſon why the Committee refuſed the Proviſo. The Committee, though they were for Indulgence, were for no Toleration. The Committee thought not fit to make it temporary, becauſe then they had a time certain, and might do miſchief. They may poſſibly ſend the King Money.

Mr *Godolphin.*] I have a great deference for the other ſide. I beg pardon, if I am not convinced by their ar-

guments. The liberty you give them may be abuſed, and you may have experience, in ſeven years, of their deportment.

Mr *Hampden*, ſen.] I am againſt the Proviſo, and therefore againſt reading it. The ſame reaſon may be, to make every Bill a Probationer as for this: I hope the Diſſenters will deſerve it, and you do it upon a preſumption that they will be true to the Government. This will go with you, though perhaps not with the common people in *Weſtminſter-Hall*. At this time, they are lending a conſiderable ſum for uſes you will approve of, I am ſure. I cannot anſwer the argument, why you ſhould limit this Act, and uſe theſe people gently for a while, to perſecute them afterwards. You have not repealed the Laws they are puniſhed by, but only that they ſhall not be proſecuted by them. The Repeal of the 35th of *Elizabeth* paſſed the Lords Houſe, but what became of it, I am not willing to remember: That Act is the only Law left that the Papiſts might ruin the Church of *England* by. They ſay, their Religion is the Church of *England*; by which, if they meet in private houſes, they muſt abjure, or be hanged. Theſe Laws with freſh vigour may be executed againſt them. Let no interruption be to the joy of theſe people, and lay aſide the Proviſo.

The Proviſo was rejected, and the Bill paſſed.

[*May* 18, 20, and 21 * Omitted.]

Wedneſday, May 22.

Mr *Hampden*, ſen.] What I ſhall move you, is for the King and the Nation, "That the Act for *Habeas Corpus*, *&c.* may be ſuſpended for a time." The Lords ſhortened the time of the laſt Bill, not you. Dangers uſually come not in a day; growing dangers, and the conſequences, are in the dark, when it is too late to prevent. What is the meaning of all the intelligence that comes out of the Country, of ill-affections to the Go-

* The Thanks of the Houſe were this day given to Admiral *Herbert*, (afterwards Earl of *Torrington*) for defeating the *French* Fleet in *Bantry-Bay*; though, according to *Burnet*, it appears, at moſt, to have been a drawn battle.

War was this day declared againſt *France*.

vernment?

vernment? And have we not a body here that are mutinying againſt the Government? In *Lancaſhire*, ſince the *Iriſh* were diſbanded, they meet in parties, and you have no way to obviate this danger but by this Bill. You are willing to go home; what will the King do? Dangerous perſons will be delivered out of priſon of courſe, if this Bill prevent it not; and they may act to the Subverſion of the Government. If you will leave Impeachments behind you, when you are diſmiſſed, that will be a tedious way, and they may elſe come out. The ſame common danger with you induces me to move this.—And if people conſpire, the King cannot keep them in priſon; ſince they muſt come out by *Habeas Corpus*, if you prevent it not by this Bill. We are in War, and if we make only uſe of that remedy as if we were in full Peace, you may be deſtroyed without remedy. This Bill is for preſent occaſion, and for a ſhort time only I move it.

Sir *Francis Ruſſel.*] If this were taken away, poſſibly I might be for it; for a *Habeas Corpus* is the Law already, without the new Act; and when we ſhall ſee better Judges, that Law will have its courſe. This ſeems as if there was a defect in the Government; and I hope you will rather take away the late Act quite, than prolong the laſt Act that ſuſpends it.

Sir *Robert Napier.*] This Miſtreſs of ours, the *Habeas Corpus* Act, if we part with it twice, it will become quite a common Whore. Let us not remove this Land-mark of the Nation, for a curſe attends it.

Mr *Boſcawen.*] The Gentleman is rather for taking away the *Habeas Corpus*, than this Bill: That, I think, is a great extreme. Let the danger be ever ſo great, I would not diſpenſe with that Law but by Parliament. If diſpenſed with by the Executive Power, 'tis fatal always; by the Legiſlative Power, there is no danger. I am informed, from the North, of perſons having been taken upon the borders, going to ſide with thoſe riſen in *Scotland*; therefore it is beſt to prevent the dangers: And is it not worthy the conſideration of Parliament, that the Soldiers be prevented going into that country? There is no Law againſt that; but you have

ground to ſuſpect, when they talk laviſhly, that a little drill of a dam may make a breach in the bank. Will thoſe Gentlemen, that are not for the Bill, take upon them the danger that may enſue upon not paſſing it?

Sir *John Lowther.*] I can add nothing to what has been ſaid: I ſhall only ſay, that, as for thoſe in the North, I ſhall acquaint you with matter of fact. Perſons were taken, who confeſſed they were going to King *James*; though ſome are in cuſtody, yet ſome have entered Col. *Langſton*'s quarters—They refuſe to take the Oaths to the King and Queen; and, if there be no remedy, theſe perſons will purſue their intentions.

Sir *Joſeph Tredenham.*] I hope the Laws and the Government are not ſo looſe, as to do any thing extraordinary upon this occaſion, which is now Law, and the ordinary courſe. I appeal to you, if going armed be not puniſhable by Law; if in Arms, in terror of the people? In theſe countries, if theſe things happen, the Magiſtrates may remedy them by Law. If every thing in Parliament is well done, nothing I fear ſo much as eſtabliſhing any thing againſt *Engliſh* Liberty by Act of Parliament. If ſuch a Bill be neceſſary, no man is more for it than myſelf; but if not, I hope the Houſe will be againſt it—I would, therefore, farther conſider the nature of this Law; and, ſo far as conſiſts with your ſafety, it may be aboliſhed. The unſettledneſs of the Nation, at preſent, is the only argument for it; but, I hope, now you will be ſettled, ſo as to have no need of it. In *Rich.* II's time, the Law of Proviſors was made, which that King ſuſpended; and afterwards an Act with a Salvo to the King's Prerogative. If once you declare, that ſo tender a thing as this, for ſupport of the Government, may be ſuſpended, it may make *Weſtminſter-Hall* think ſo too, and follow your Precedents. We have Enemies abroad, and at home; and it is but a ſhort time that this Bill is to continue; and it may be ſuppoſed that ſhort time may not mend our condition. If people apprehend the Government not firm, it will make them have a leſs heart to ſupport it. If we will not truſt it in little matters, ſurely we ſhall not in greater. Content yourſelves with the

the Laws you have already, and make no violation of them. Farther conſider it.

Col. *Birch.*] It is beyond my time to court "this Miſtreſs" ſpoken of; but I will ſtick to this as much as any body. You are moved for a farther day to conſider this, and this is your day. 'Tis ſaid, "now the Government is ſettled, no need of this;" but we all know that it is not ſettled yet; and before it will be better, it will be worſe. We are in a ſtate of War, and worſe than War. There is a great man on one ſide the water, and King *James* on the other; and a Popiſh party, and another, in the midſt of us; and this is a ſtate of War, ſure. If this be our condition, and diſaffected perſons in every corner, I would know of any man how this *Habeas Corpus* Act is now practicable. Theſe men that diſturb the Government have been picked up, but not tried, in two or three months—And you muſt deal ſharply with them now. I think you cannot make it for a ſhorter time than *November*, at leaſt; for we muſt go home, and then it will be worſe. The Lord-Lieutenants and Juſtices of the Peace being in diſorder, I hope this will keep us in ſafety at preſent.

Sir *Robert Sawyer.*] Give me leave to put you in mind of a thing put into my hands. Your Bill does not take care for Proof of a Charge againſt a man. Upon a bare Suſpicion, Information was given by a woman, "That ſhe was, with another goſſip, in a houſe, where ſhe heard declared, that there was a Conſpiracy againſt the preſent King, and that one Sir *Robert Sawyer* did confederate with others to this purpoſe." But I muſt declare, I never had that in my heart; and I believe that King *James*'s return would be the deſtruction of *England*. At this rate, myſelf, or any man, may be clapped up in priſon.

Mr *Hampden*, ſen.] If ſuch an aſperſion be upon a man, he has reaſon to reſent it; but he may remember, 'tis not the firſt time that men have, upon ſuſpicion, been clapped up, and that goſſips have given Evidence, and Judgment has been upon it. I cannot blame him for reſenting it; but he is ſafe, being a Parliament-man; and, I believe, no body takes him to be in a Conſpiracy. Was the Act of *Habeas Corpus* made to ſhackle a good Prince?

You

You have heard of forty thouſand to bail; and would you have the King do this to ſave the Government? All this *Sawyer* knows.

Col. *Mildmay.*] This Act will ſhackle the King you have confidence in. You muſt know that *Weſtminſter-Hall* Judges did that which *Sawyer* complains of; yet he is here. All that dare ſhow themſelves, do it now; practiſing, and yet they are ſo cunning, they do not come within danger of the Law, 'Twill not be for your ſervice, to deny this Bill now. We deſire to be at home, and 'tis fit we ſee theſe Laws put in execution that we have made; and we may, in the interim, be in danger. Therefore let us firſt paſs this Bill, not for a long time, but a neceſſary time; for ſix months.

Mr *Ettrick.*] I am againſt this Bill, becauſe it grows ſtill worſe and worſe than the firſt; which was, for ſix Privy Counſellors, or two Secretaries of State, to commit. How far this may be, I know not. The ſecurity of all Governments is the good-will of the People; and I fear this may take their good-will from you. *Magna Charta* was confirmed thirty-two times. I know not whether going by this, by degrees, may not tend to repeal *Magna Charta.* Upon what Suſpicions they will commit, whoſe they are, and on whom, we know not. 'Tis ſaid, "*Sawyer* ſits here:" You are going into the Country, and I know not how ſoon ſome of us may be ſent for again, and committed, perhaps till *November*, to a cloſe priſon all this ſummer. I look upon the *Habeas Corpus* Act as the greateſt defence againſt oppreſſion; and *Weſtminſter-Hall* may ſay, "it is inconſiſtent, againſt the ſafety of the Nation," and a good ground for the Judges in *Weſtminſter-Hall* to ſuſpend it.

Sir *Rob. Cotton*, of *Cambridgeſh.*] As an *Engliſhman*, I am jealous of our Liberties, and will not give my Vote to betray them. The difference betwixt a Subject and a Slave is, that one has the benefit of Law, the other is uſed at pleaſure. Never ſince the Barons Wars did any thing come from the Parliament to infringe that Liberty. You are told, "This Bill is neceſſary as long as the Government is unſettled." *Lewis* XI of *France* deſired only liberty to raiſe Money till the next Parliament did ſit; and

and he never called a Parliament, and they have raiſed Money without Parliaments ever ſince. I am jealous of a thing of ſo high importance to preſerve our Liberties, not to put the Subjects in ſuch a condition as to ſuſpend their Liberty for an hour.

Mr *Roberts**.] This is not only to ſuſpend the *Habeas Corpus* Act, but all the Liberties of the Nation. The perſon is committed without Oath, and may live in priſon. This is putting Arbitrary Power in the Government. I am againſt it.

Mr *Hawles.*] I think it fit that ſuch a Bill be brought in, in time of danger from abroad, and within the realm; and 'tis only to confine them from doing miſchief. I am glad to ſee that the King and Government will not do it without an Act. In 1683, ſeveral were clapped up in *July*, and not bailed till *November* the 8th, and had not been then, but to bring the Popiſh Lords out of the *Tower*, Lord *Powis*, and the reſt; and if a diſtinction could have been found out in their caſes, they had not been then releaſed. I think this Power fit to be lodged for the ſafety of the Government, and I am for enlarging the time.

Sir *Chriſtopher Muſgrave.*] I am againſt ſuch a Bill; it ſuſpends not only the *Habeas Corpus*, but the Law that was before it; (the fault of that Law was, there was no puniſhment for the Judges) I am ſorry the Government is ſuch, that men may be clapped up without Oath, and detained in priſon. We hear of ſeveral clapped up, and no proſecution againſt them, at the pleaſure of thoſe that confine them. We are told of ſome going to King *James*; if that be ſo, you have a Law to puniſh them; and if any break in upon your Army, 'tis Rebellion, and you may puniſh them. I am not for confining men to priſon, the greateſt puniſhment next to death. I ſpeak by experience: I have lain in priſon. I hope you will not give leave to bring in ſuch a Bill.

Sir *Henry Capel.*] I am glad to ſee the ſenſe of the Houſe ſo concerned for that Law of *Habeas Corpus*; but it is the wiſdom of all Governments not to be ſtrait-laced

* A younger ſon of the Earl of *Radnor*, Vice-Preſident of the Royal Society, *&c.* He died in 1717, and was father of the late Earl.

upon

upon any emergency. This Bill was obtained with great difficulty, to ſtop the hands of perſons from violence: But, in ſuch a conjuncture as we are in, to be tied up not to do for the common ſafety, that people cannot be preſerved by the Government, that will loſe the people's hearts. To do this by Parliament, there is no danger; but that will be when Charters are voided, and no free Elections; and there is no danger in this Parliament, freely elected. But ſhall thoſe in *Weſtminſter-Hall* be compared to the legiſlative Authority?—But if they tranſgreſs, I hope they will be made an Example. The time named in the Bill, *&c.* is *Michaelmas*, or *November*—The Commiſſions of Peace are not gone out, and many will not act; the Deputy-Lieutenants have not had their Commiſſions. In the Juſtices there is a failure, and it may be amongſt the Deputy-Lieutenants; thoſe are the life of the Government; and if they will not act, nor the Army is ſecure, what ſhall the Government do to keep us in ſafety? I think, upon theſe circumſtances, this Bill may be for our ſafety.

Mr *Ettrick.*] Had *Capel* known *Weſtminſter-Hall* as long as I have, nothing has been more ordinary there than to judge your Laws void.

Mr *Foley.*] I know, *Weſtminſter-Hall* Judges have judged Neceſſity in caſe of Ship-Money, and no inference that they may do it again; but that certainly we are in danger from *Ireland* and *France*, and ſome amongſt us. If I am informed right, there were never ſo many *Louis-d'ors* in payment: A third part of great payments is made in *Louis-d'ors*.

Sir *Thomas Clarges.*] This Bill is the moſt unreaſonable and deſtructive that ever was made in Parliament. We have had a ſtruggle for it theſe fourteen years; and now, upon ſuggeſted Neceſſities, to diſpenſe with this Law! I am ſorry we ſhould take example of this thing from corrupt times. I hear it ſaid, "We ſhould not ſhackle our Prince." In *Oliver*'s time, in 1656, one *Coney* was committed by his Order, and Judge *Rolle* delivered him—But *Cromwell* ſaid, "Princes muſt not be ſhackled." Felony and Treaſon are not bailable by that Act—But what other offence can it be unleſs that?

It

It grieves me to hear this; would you have a man committed to priſon becauſe he wears his hat on one ſide? 'Tis ſaid, "Perſons will not acknowlege the King, and take away horſes; is not this Treaſon?" If Juſtices of Peace are not yet named, the Secretaries of State may ſend all over *England*—And where ſhall we lay the conſequence of the loſs of *Ireland*, but upon the Miniſters of State? You are told, "That, in *Monmouth*'s Rebellion, men were denied Copies of their *Mittimus*."—They had a good Action, and might have had remedy. I am afraid of this. I tremble at the Queſtion, and deſire no ſuch Motion.

Sir *Rob. Howard.*] I hear divers arguments againſt this Bill; but I think it gives great veneration to the *Habeas Corpus* Act, that it cannot be ſuſpended but by Act of Parliament. By the Judges it cannot be ſuſpended, to make this Bill an Example, unleſs they will make an Act of Parliament in their boſoms. I wonder, in the laſt Act, that the Lords ſhould reduce the time ſo ſhort as to make the Act uſeleſs; but, I apprehend, it was the modeſty of the ſtyle the Lords uſed, and you ſee little uſe was made of it in that time; but I do not wonder that you provide againſt new accidents from the unſettlement of the whole Nation. I obſerve, when the Prince of *Orange* was upon his deſign, if this Diſpenſation had been made uſe of, many might have been clapped up (and the happy change prevented) and myſelf one. This is a ſtrange diſtruſt, in that which all mankind called then their ſafety. In the condition we are in, I think the Bill neceſſary, and I am ſorry the condition of affairs makes it neceſſary. Other than this (the long Vacation we are like to have) I know no ſafety; therefore I move for this.

Mr *Harbord.*] We are told, "If 3000 men had been ſent into *Ireland*, it might have been ſaved." I would aſk that Gentleman, what 3000 men he would have had ſent over? To ſend our own was not ſafe, and not fit to part with the *Dutch*. Thoſe ſent over have betrayed *Londonderry*, and thoſe ſent ſince have mutinied. I know not how *Clarges* can anſwer, that the King, perſuaded by

by Col. *Lundy*, betrayed *Londonderry* *. There are ways for the King to puniſh men—'Tis no eaſy matter to impeach in Parliament, and there he muſt lie till you meet again—and the Nation loſt.

Sir *Thomas Clarges.*] I called upon two Hands, one for the Miſcarriage of *Ireland*, and they have made the conſequence upon the Miniſters, not I. Deputy-Lieutenants may ſecure Perſons, and that is another remedy.

Mr Comptroller *Wharton.*] If *Clarges* ſays, "The Miniſters were the Cauſe of the Miſcarriage of *Ireland*," it may be he was one; but many were of opinion, that King *James* had not abdicated the Crown, and that Gentleman was one of thoſe Miniſters.

Sir *Thomas Clarges.*] I deſire I may be vindicated. I am arraigned for Debates; we ought to be free here; to ſay "that was the Occaſion of the Miſcarriage of *Ireland!*" I deſire to have right done me. I except againſt the Words of that Gentleman, which were, "Thoſe that were of opinion that King *James* had not abdicated the Crown, nor that the Throne was vacant, were the Miniſters."

Mr Comptroller *Wharton.*] I did not ſay any thing of "Debates of the Houſe." I ſaid, "Thoſe that held that opinion were the Occaſion."

* King *James* ſent a ſmall body before *Londonderry*, which was often changed; and by theſe he continued the Siege above two months, in which the poor inhabitants formed themſelves into great order, and came to generous reſolutions of enduring the laſt extremities. They made ſome ſallies, in which the *Iriſh* always ran away, and left their officers; ſo that many of their beſt officers were killed. Thoſe within ſuffered little, but by hunger, which deſtroyed near two thirds of their number. One convoy, with two regiments and proviſions, was ſent to their relief: But they looked on the ſervice as deſperate, being deceived by *Lundy*, who was the Governor of the place, and had undertaken to betray it to King *James*; but he, finding them jealous of him, came to the convoy, and perſuaded them that nothing could be done; ſo they came back, and *Lundy* with them. Yet the poor inhabitants, though thus forſaken, reſolved ſtill to hold out, and ſent over ſuch an accout of the ſtate they were in, that a ſecond and greater convoy was ſent, with about 5000 men commanded by *Kirk*, who, after he came in ſight, made not that haſte to relieve them that was neceſſary, conſidering the miſery they were in. They had a River that came up to their Town i but the *Iriſh* had laid a Boom of Chains croſs it, and had planted Batteries for defending it. Yet a Ship ſailing up with Wind and Tide broke through: And ſo the Town was relieved, and the Siege raiſed with great Confuſion. *Burnet.*

It appears by the above Account, that the Fears in the Houſe for the Fate of this Place were at this time ill grounded.

Sir

Sir *William Williams.*] The Queſtion is plain, "Whether this Law ſhall be ſuſpended for any farther Time;" which is ſo much for the ſafety and preſervation of the Kingdom. Liberty of Perſons is the Queſtion. Whoever is for the ſafety of the Kingdom muſt be for diſpenſing. We were under danger when we made that Act firſt; now we are in a more imminent danger, in worſe condition, and *Scotland* in no good condition; and I apprehend it more dangerous, when the Town is naked, and the King naked, and the Parliament gone. I think this Bill may be qualified with, "not to be committed without Oath."

[Leave was given to bring in a Bill, *&c.*]

[*May* 23 Omitted.]

Friday, May 24.

A Bill to impower his Majeſty to apprehend and detain ſuch perſons as he ſhall find juſt cauſe to ſuſpect are conſpiring againſt the Government, was read the ſecond time.

Sir *Thomas Clarges.*] I cannot but be troubled at this Bill, and the more for the Reaſons given for it. I am not convinced of the neceſſity of the Bill, and more concerned for the King, who has delivered us from arbitrary Practices, to have this King informed, that the Laws of the Nation are ſuch, that the Kingdom cannot be kept in peace with them. 'Tis ſo much againſt the privilege of the ſubject that any man may be impriſoned upon a bare ſuggeſtion, and not have benefit of *Habeas Corpus.* Upon commitment for Treaſon, or Felony, a man cannot be bailed. If he refuſe the Oaths, he may be impriſoned, and the next refuſal is *Præmunire.* I would not have any man committed, by this Bill, but by Oath, and that the accuſer do give ſecurity to proſecute.

Sir *Thomas Littleton.*] I think there is a neceſſity of ſuch a Bill; the peace of the Government depends upon it, now there are a ſort of people diſturbing the Government. I obſerve how tender the Government is now; in the laſt Reign, every thing was "conſpiring the Death of the King," and that was the Tenour of all their Warrants; and ſince the King has done ſo modeſtly in the uſe of the two laſt Bills, not as formerly—

Mr

Mr *Garroway*.] I would to God, the King had not been put to it to get this Bill—But abroad in the World there are ſtrange diſcontents, and ſuch language as is not fit to repeat. The *French* King and King *James* are againſt us, we are now near a receſs, and when we are gone, I know not what combuſtion may be; and for us to do nothing, and not truſt the King!—I know not what combuſtion we may fall into; we are not now barely in fears and jealouſies—I hope the ſame hand that protected you will do it ſtill, and I move you to commit the Bill.

Mr *Boſcawen*.] I am againſt *Sacheverell*'s Proviſo; this Bill is for the ſecurity of the Nation. It has been opened, but you are at liberty to receive it or not. I have lately received a Letter: I will open it, and then you may judge whether you will read it, or not. 'Tis not from a fiction of my own, but it is really truth. A Member delivered me a Letter from Lord *Shrewſbury*'s correſpondence, "that perſons about the Court correſponded with one in the Poſt-Office, and he with King *James*." You muſt know that what is done in Council the Clerks know—If you receive this Proviſo, caſt out the Bill. That there are ſuch as wiſh not well to the Government [is certain.] By the Proviſo, you muſt enter every Information, or nothing at all. A Gentleman comes, and upon his reputation gives in Information—*Taken down to Order by Mr* William Forſter *abruptly*.

Mr *Garroway*.] You have ſpent a great deal of Time in this Debate of matter of Order. I am ſorry the Queſtion ſhould be put, "Whether the Proviſo ſhould be brought to the Table, or no?" I never ſaw it denied. If he open his Proviſo falſe, you will have ſatisfaction of the Gentleman. Let him bring it to the Table, and judge of it.

[The Bill was ordered to be committed.]

Saturday, May 25.

The above Bill was read a third time.

Mr *Godolphin*.] I have ſome reaſons to ſpeak againſt this Bill. 'Tis the inherent right of every Member to ſpeak his mind upon Bills in Parliament, though he is ſometimes attacked for it. I think this Bill to be againſt the King's ſervice; nothing is more for the diſſervice of the King, than

than to create prejudice againſt him, and nothing more than to think he will govern by arbitrary Power in the Members of the Privy Council, as in *France*. The King makes an Edict, *Car tel eſt notre plaiſir*. This may ſubject your Bill to ſome Queſtions hereafter. Some time ago we did arraign the Government of arbitrary Power, exerciſed againſt Law. We go about now to eſtabliſh arbitrary Government by Law.

Sir *Chriſtopher Muſgrave*.] The occaſion of bringing in this Bill was becauſe it was thought neceſſary for the preſervation of the Government. At preſent, there are divers diſorders, but when I conſider we have a good Fleet, and have had Experience of our Officers, it may ſecure us from foreigners, though we do not hear much of aſſiſtance from others; (but that by the by) What then muſt we be afraid of? It muſt be home Papiſts, not yet clapped up. It muſt be from ſome people within us. If more conſiderable than they are, we have an Army of forty thouſand men to protect us, which may prove as fatal to thoſe that ſhall attempt againſt the Government as formerly. If we have ſuch an Army, there can be no need of ſuch a Bill, to commit men to priſon without Oath, made upon ſuſpicion only, which may be grounded upon malice, and be ſo conſtrued as to bring misfortune to deprive Gentlemen of their Liberty, and, to their great charge, to be committed to the *Tower*; ſo I hope you will not part with ſuch a Law ſo uſeful to us, and ſo valued. 'Twas one of the conditions of the neighbouring Kingdom (*Scotland*) with the King, to have an Act of *Habeas Corpus*, as in *England*. They are in a State of War, and are not deſirous of ſuch a Bill as this.

Mr *Boſcawen*.] If this Bill deſerves ſuch a character as has been given of it, throw it out. I think it does not, and there is no invaſion of the Liberty of the Subject; it is far from reducing us to the Government of *France*; that King does all for his Will and Pleaſure, we do all by the Legiſlative Power for preſervation of ourſelves. There is a ſort of men that think of returning to King *James*, drinking his health, renouncing obedience to the King; the ſame ſpirit is working now as formerly. Were the days quiet, without apprehenſions, to have this Bill would be

the greateſt Blemiſh to the Government. They, in the laſt Reign, came not to the Parliament for Liberty to ſuſpend the penal Laws, or this Bill. This is for a time only, and far from the Practice of the laſt Government, or *France*.

Sir *Robert Cotton*.] I am as much for the ſettlement of the Government as any man, and will do as much towards it. I know, as circumſtances alter, things muſt alter, and if only circumſtances were altered, and a man to be committed without Bail, but to alter the reaſon of the Law is hard. Laws are made that a man may be ſafe, that a man may know his crime before he be committed to priſon, and may recover his Liberty in a legal manner, as the Law appoints. If this was for ſuſpicion of fact by words, or any ground of reaſonable ſuſpicion; but when the ſuſpicion has no ground, but upon private reſentments, and that not ſo open, and not know why ſuſpected, this alters the very reaſon of the Law of *Habeas Corpus*. I know not how to diſtinguiſh the Liberties and Privileges of the Houſe, as was offered yeſterday for a Proviſo in this Bill; but if nothing be offered upon Record, who will know that it is not for words here? And the Liberty of Parliament will be deſtroyed. We have had a Proclamation about *French* Goods ſpoken of here; and the Seal; and that could not be done without advice; and how far may the adviſers reſentment extend to thoſe who complained of it here, and they touched with it? This is the greateſt Breach of the Subjects Liberty without, and the Liberty of the Houſe within, I hope you will throw out the Bill.

Mr *Hampden*.] I find Gentlemen tender in this Bill, and I cannot blame them. All the Arguments I have heard were good, if we were about to take away the Law, but if Gentlemen think themſelves ſafe, what need is there of a Militia, for ſecurity of the Kingdom? Theſe Acts are like Buckets for Water, to ſtand by till you have uſe for them. I know, the *Romans* gave up all their Laws for a Time to the Dictators, for the preſervation of the Government.

Sir *Joſeph Tredenham*.] I cannot conſent to paſs this Bill. When the firſt Motion was made for this Bill, it was for this end, to keep perſons from impriſoning by arbitrary Power,

Power, and now that perſons may not claim their *Habeas Corpus*, when impriſoned, till the Government were entirely ſettled; and now that it is in good forwardneſs, that caſe ceaſes. The Privy-Council, by this Bill, may impriſon upon all ſuſpicions, and the Power of the Bill laſt till *October* next. How agreeable is this to the Laws of the Kingdom, to make ſo great an Invaſion upon our Liberties, I muſt declare my diſſent when the Queſtion is put; and ſince I have this occaſion, I muſt make uſe of my Liberty. I have a great Reſpect for thoſe that are to have this Power, but ſuch an extraordinary Authority has always been found fatal to thoſe that have executed it, and been entruſted with it, as lately was the Eccleſiaſtical Commiſſion. There is a truſt implied in thoſe Grants, and they are anſwerable to the Legiſlative Power for their Actions, and it is a Queſtion whether they will approve of what they have done. The Laws are not at all defective. The *Habeas Corpus* enacts only a declaratory Law of what was the Common Law before the Great Charter; and the *Habeas Corpus* was a Law to be tried in convenient time, and not to lie in priſon, when committed for ſuſpicion of Treaſon and Felony; and if this Bill make it not bailable in Felony, ſurely not in Treaſon, and the offence muſt be expreſſed in the Body of the Commitments. There has been ('tis true) extraordinary Bail demanded by the Judges, but whether is it more grievous to have extraordinaay Bail, or no Bail at all, as by this Bill, *&c.*?

Sir *William Williams*.] I differ from that Gentleman; for the very Reaſons he has alleged, I deſire the Bill ſhould paſs. Were it ſuch a Bill as to lodge an arbitrary Power in the Prince, I would agree to my own Execution firſt; ſhould a Bill be brought in to place an abſolute Power in the Prince, I would call that Man to the Bar who ſhould bring it in. I take the Privy-Counſellor, to act in execution of this Bill as Truſtees for the Kingdom of *England*. Had it been for my Life, I would have had that Clauſe in, that was rejected, about entering Informations into the Council-Book, *&c.* yeſterday. Privy-Counſellors are not all Lawyers, and I would have that Clauſe for their ſafety. Privy-Counſellors, by this Bill, may commit for ſuſpicion of Treaſon; if they have no reaſon for what they do, I

tell them to their faces, they muſt anſwer for it in Parliament. They are not to ſuſpect a man becauſe he wears a white perriwig, or a maſk, but upon a juſt cauſe; elſe he muſt not be queſtioned. This cannot ſecure them from anſwering in Parliament; if they commit a Perſon without cauſe, they muſt anſwer it to the Law, and the Kingdom. Therefore paſs the Bill.

[The Bill paſſed, 126 to 83.]

[*May* 27, 28, 29, 30, and 31 Omitted.]

Saturday, June 1.

Mr *Leveſon Gower.*] I deſire that it may be enquired, why the forces ſent to relieve *Londonderry* came back again? If *Ireland* be loſt, *England* will follow—And why the man that was ſent to enquire the Condition of *Londonderry*, landed not?

Mr *Colt.*] Theſe delays muſt lie at ſomebody's door—A poor parcel of People defended themſelves bravely, and gave a ſtand to the Enemy—I would enquire who were the Authors of the Counſel, when the Commiſſioners were ſent to the Army—That brave Regiment at *Stamford*, inſtead of being ſent into *Ireland*, was to go to *Antigua*, and the King knew nothing of the matter, but that it was one of the Marine Regiments. I would have this part of the Inſtructions to your Committee to enquire.

Mr *Howe.*] I gladly ſtand up to ſecond this Motion, and I hope, before we part, to ſecond ſomething of the ſame ſort worthy your conſideration. They that came back from *Ireland* periſhed in the Ships by ill Proviſion; thoſe who gave this Counſel are greater offenders than they that executed it. I ſee no Juſtice done upon them; and I ſhould regard them no more than a footman in the ſtreets. I find ſtones thrown at my back, and I know not who does it, but if I find Perſons in the crowd that are my enemies, I believe they did it. King *William* came over and delivered us from theſe Counſels; if we be delivered to theſe men, who formerly gave the ill Counſel, and were of the Privy-Council to King *James*, they are not fit to be Counſellors to King *William.* If you deprive him of theſe ſervants, who would draw the King into the ſame incon-

inconvenience they did King *James*, I hope affairs will go on much better.

Mr *Smith* *.] I heartily join in this Motion, but the Motion is properly "for a Committee to enquire into the miſcarriages relating to *Ireland*, &c."

Sir *Robert Howard*.] I would willingly do the King preſent ſervice, but now we are to apply ourſelves principally to this Buſineſs. I am glad I now ſtand in a Parliament, where I may ſpeak for the King and Country, and not by interpretation of others, that we ſpeak againſt the King, if for our Country; but now it is otherwiſe. Two things are to be done concerning *Ireland*; one is, what has been done amiſs, who ſhould have ſtayed to have relieved them; the other, the ſlow aſſiſtance that has been ſent them. He that will not ſpeak plainly in this, muſt go againſt his judgment; I am ſure it is againſt mine. You have made a Bill to puniſh Mutiny and Deſertion. This of *Ireland* is of ſo ill conſequence, and a Queſtion, whether this matter comes within thoſe two heads. The King will be tender in theſe things.—My opinion is ſingular, and therefore I miſtruſt it. Great minds do great things, by conqueſt of Countries, but to enſlave their Laws and Subjects is the leaſt part of Princes. *Edward* III knew how to conquer, and had great Aids; *Edward* II, and *Richard* II, to enſlave us at home—We have a King of that great mind, that, when we came into this Power, he might have quickly exacted it. Therefore it is no fault of his—If there be the leaſt doubt in executing martial Law, he will not do it—But as for the Lords, we have a late Judgment in *Oates*'s Caſe—I will ſay no more of that. If you are wanting in this, you ſend word to *Londonderry* to give it up. There is a thing called Impeachment; and it is the right of the Commons to do it. Though the King will not come to it, yet I am of

* Mr *Smith* was a man of clear Parts, and of a good Expreſſion, and went through great Poſts in King *William*'s Reign with Reputation and Honour, being Commiſſioner of the Treaſury, and Chancellor of the Exchequer: He had from his firſt ſetting out in the World been thoroughly in the Principles and Intereſts of the King, yet with a due Temper in all perſonal things with relation to the Times. *Burnet*.

In Queen *Anne*'s Reign he was choſen Speaker, in 1705, by a Majority of forty four Voices, in oppoſition to Mr *Bromley*.

opinion that the Act itſelf is a deſertion of *Lundy*. If we do not our part, and are wanting in our Duty to the King, we are like to have a melancholy Seſſion when we meet again. I move that a Committee may ſit ſtrictly to enquire if theſe men are worthy of an Impeachment. I would have a ſearch, and a ſpeedy ſearch, into theſe things, that *Ireland* may ſee we deſert them not.

Mr *Harbord*.] I hope we ſhall not only enquire into theſe, but what has been done in general, and if any perſon be faulty, to repreſent that too to the King. As to *Ireland*, nothing has been more induſtriouſly followed in ſome places, and defective in others. There was ſent above 2000*l*. in Proviſions, and not only to bring themſelves back, but their Proviſions too! Either they are guilty of the greateſt Treaſon, or Cowardice in the world. A Court-Martial will handle theſe men tenderly, and I do not know whether an Impeachment will reach them; but if you do nothing, all will be loſt. One came from *Glaſgow* to *Londonderry* with Proviſions, hearing it was ſtraitened: I ſent the perſon to take away from the Goldſmith what he pleaſed, and he will be at *Glaſgow* in ſixty hours. I have long foreſeen ſuch a ſtorm as this, and I have carefully entered all this for your ſafety.

Mr *Hampden*, ſen.] I move for Inſtructions to your Committee to enquire into a freſh purſuit about the Victuals. Some ſteps have been made towards this. An Officer of *Cheſter* has been committed for great abuſe; on complaint, the Proviſions he made were ſo bad, that a great many were little better than poiſoned, and in a languiſhing condition. The Priſons in *Cheſter* Caſtle broken—This is ſo newly done that it may be enquired into, and it is worth your Enquiry what guilt lies upon the Victuals.

Mr *Harbord*] The Victuallers of the Navy, *Haddock* and the reſt, ſent down to the perſon, and Col. *Richards* told him, the Seamen had rather drink their own water. The Victualler's name is *Anderton*.

Col. *Birch*.] This of theſe miſcarriages is a great Buſineſs, and, if well followed, will make the Rabbit bolt. I would have Inſtructions given to your Committee to enquire into this. Now it is a good ſeaſon, this month, and they

they may go in two or three days and come back; all that know thoſe Seas, ſay, they may tide it half Sea over, and anchor at this time of the year. I would enquire into theſe things in general.

Sir *Joſeph Tredenham.*] If there be no other Perſon to blame than him named, you come not to your end. Therefore I would have it enquired to the bottom.

Mr *Boſcawen.*] I know not why we ſhould be tender in naming Perſons. I think they ſhould be particularly named, not only in the matter of fact, but their opinion of the whole.

The Speaker.] The Committee are to report only the matter of fact, and 'tis proper for you to give opinion of the whole.

Sir *Robert Clayton.*] 'Tis a thing admirable to me, that Col. *Richards*, who raiſed the firſt Regiment to fight againſt the Proteſtant Religion under King *James*, ſhould be ſent to maintain it. I would have this for Inſtruction to the Committee.

Mr *Hampden*, ſen.] Lord *Liſburne*'s Regiment was thought fit at firſt to go to *Antigua* till it was reformed, which is now; but now another Regiment is ordered.

Mr *Harbord.*] I would have it enquired into; but I have heard Mr *Blathwayte*, the Secretary of War, ſay, "that the King would have a proper Perſon to go, and Sir *George Leſley* was pitched upon, but he lying near *Scotland*, the King had changed his mind, and that Regiment was fit to go."

Mr *Montagu*, Clerk of the Council] I wonder Gentlemen ſhould twice repeat this of Lord *Liſburne*. The firſt Regiment was *Leſley*'s, and that was ordered for *Scotland*, and the Papiſts were turned out of it; as good a Regiment as his, Lord *Roſcommon*'s Regiment, as more proper, was ordered for *Ireland*.

Mr *Howe.*] I am glad of this good beginning. But I would have this Committee to examine particulars, why we had not kept the Papiſts for Hoſtages, and why Admiral *Herbert* was ſent to ſea with but nineteen Ships, when he ſhould have had thirty, and why ſo many ill men in all Offices. It ſeems, thoſe Gentlemen want ſenſe to manage, and ſo put in King *James*'s Officers; one

Bucket goes in, and another out. I would enquire into thoſe that give theſe advices. 'Tis ſaid, in the Country, we are betrayed, and if we addreſs the King to remove thoſe who are under Impeachments for Crimes, and thoſe that managed King *James*'s affairs, we do but what we ought.

Mr *Holt*.] We are beholden to *Londonderry*; if that had not made a good reſiſtance, King *James* had been at *Edinburgh* before now. I never expect redreſs of theſe miſcarriages, till we come to the root. If *Londonderry* miſcarriage be not redreſſed, it will come home to us. The old Army, we ſee, is continued, and the new one laid aſide. Thoſe who were King *James*'s creatures, are now in Office and Employment, and in great ones; and thoſe who have been of the Cabinet-Council with the Queen.

[*Reſolved*, That a Committee be appointed to enquire who has been the Occaſion of the Delays in ſending Relief over into *Ireland*, and particularly to *Londonderry*.]

Monday, June 3 *.

On the Heads for the Bill of Indemnity.

Mr *Howe*.] I move that you proceed upon the Indemnity; and, as for Offenders, I would ſhake them off gently from my Hand like a Viper, but when it is upon the Ground I would tread upon it, and deſtroy it, that it may hurt no more.

Mr *Garroway*.] We find great miſcarriages in the Government, but we do not know where to place them; the main of our miſcarriage is, that we are not quicker with our Money to ſupply the preſent Emergencies of the Government. As for thoſe who have abuſed their truſt, let better men be put in their places. The military miſcarriage is the ſource of all. Unleſs we enable the King, he cannot do it. I am ſorry you give the Money at four quarterly Payments: I would have had it at two. I will

* His Majeſty was this Day deſired to give Directions that Copies of the Commiſſions and Inſtructions given, relating to *Londonderry* and the Kingdom of *Ireland*, might be tranſmitted to the Committee; and that Col. *Lundy*, a Priſoner in the *Tower*, might be brought to the ſaid Committee.

not preſume to make you a Motion, but I would go on this Bill of Supply to-morrow, and on *Thurſday* on this Indemnity.

Tueſday, June 4.

On the Heads for the Bill of Indemnity.

Mr *Howe.*] I have an eye only to the preſent faults of the preſent Government—(I mean no reflection upon the Government.) But I ſee we have no Fleet gone out, and the *French* are coming out. I thought all the Wiſdom in the World could not have brought us to the paſs we are in, much leſs the Indiſcretion. *Qui non vetat, probibet.* I ſuppoſe it is the duty of every Man in the Council to preſs forward in theſe Affairs; for the miſcarriage there is no queſtion of. I ſhould be ſorry to put the Scandal upon any Man, but we muſt do ſomething for the ſafety of ourſelves. I look after being delivered from Popery and Slavery, that is all I deſire to be delivered from; but I would have thoſe Perſons that are obnoxious withdraw themſelves, without any farther trouble; but I cannot believe that thoſe who have ſat in Council with King *James*, to the laſt, are fit now to be in Council.

Sir *Henry Winchcomb.*] I ſecond the Motion to remove all thoſe Perſons, who ſat in King *James*'s Council to the laſt.

Sir *Wm Strickland.*] I would look for what is to come, and addreſs the King, that thoſe who have been the Authors of our former Miſcarriages, may be removed from his Councils.

Sir *Ralph Dutton.*] It ſeems, by the ſilence of the Houſe, no body is in fault; therefore pray let us go home.

Sir *John Guiſe.*] Every body is ſatisfied that we are governed by a ſort of People who may come within the Indemnity. I know not but our misfortunes are from the ſame Hands ſtill. When they are at the ſtern of the Government they may do us hurt in point of Trade. The *Dutch* have Convoys for their Ships, and we have none.

Sir *William Williams.*] I ſee men have a quiet and eaſy Spirit upon them. I will make bold to rouſe them. I move for the Bill to aſſert our Liberties.

Mr

Mr *Howe.*] 'Tis in vain to aſſert our Liberties, when men take the freedom to break them; they were always our Liberties.

The Heads were read.

Mr *Howe.*] There are a great many Heads to ſpeak upon. If Counſel have done ill, and we are merciful without Juſtice, we ſhall do as ill. If it be their faults, it may move pity; if their confidence, it may move your anger. Some have been impriſoned, others whipped at a Cart's tail. King *James* left Pardons to many: I would know therefore, if Pardons are pleadable againſt an Impeachment? If they are, we had as good except no body; therefore I would know, whether they are pleadable, or no?

Sir *John Thompſon.*] I wonder Gentlemen that carried up the Impeachment ſhould be ſo ſilent in this matter. If this be an injury to the whole Nation, I know not why they ſhould ſtill ſit in the Lords Houſe under Impeachments. I have diſcharged my Duty to my Country, do what you pleaſe.

Sir *William Williams.*] It has been ſaid, "That the Laws of *England* are cobweb Laws, that catch ſmall flies, and let the great ones run through"—Whether a general Indemnity, or with Exceptions,—that ſticks in our teeth. You muſt either paſs a round Act, or leave out all. As long as this hangs in the Air, men will be deſperate. In the firſt place, take care for the Crown and the Government; and the next thing to do is the means, either by an univerſal Indemnity, or with Exceptions. If you go to particulars, then take care how far Impeachments, according to Law of Parliament, may be pleadable. Though I have ſuffered by Parliaments, I will vindicate them while I live. If you will lie under your own Breaches, I can ſhift for myſelf as well as another, but I will never complain of my particular. I have no Pardon. Every man needs it. I had my ſhare—'Tis manifeſt that the Commons have impeached perſons. I cannot forget the Parliament of 1680; what is become of thoſe Impeachments? Not one Meſſage to the Lords yet ſent about them. At leaſt we ought to come to ſome concluſion, how far Pardons

dons are pleadable againſt an Impeachment. There are Pardons, and, I hope, learned men will not retract their Opinions, that a Pardon is not pleadable to an Impeachment in Parliament. We are in a young Government; you would not have that point lurking; either declare that it is a Bar to an Impeachment, or not; and then the King may know what to do. Shall it be ſaid this is too hot a Queſtion for the Commons to touch, and leave this to the Houſe of Commons a vexatious Queſtion, to ſay one thing and do another? If Pardons from a Prince be a Bar to Impeachments, farewell to redreſſing Grievances! It is a vain thing ever to attempt it again; you will be like the Commons in *France*, to give Money as you are directed. I move this for Poſterity, that the ſafety of the Government may not be loſt.

Mr *Hawles.*] 'Tis neceſſary to ſtate this matter controverted; how a Pardon can be allowed to be a Bar to Impeachment: 'Tis neceſſary to determine it, if perſons you except have Pardons in their pockets; if ſo, you had better paſs the Indemnity without any Exception. When the Duke of *Northumberland*, in *Edward* VI's time, had a deſign to bring the Crown into a Proteſtant Family, the Judges were prevailed upon, by him, to give their Opinion; who ſaid, "If they might have their Pardons after they gave, they would give them." They gave their Opinions in one hand, and had their Pardons in the other; the whole eleven Judges. If the Law of Parliament in Impeachments be doubtful, 'tis neceſſary to declare it. Do it now, and declare what the Law is.

Col. *Birch.*] I think this point was debated in the Parliament of 1678, and I thought this would not have loſt your time, being to be found fully in your Journals, without a Negative. By the Pardon that great Lord then pleaded, he confeſſed himſelf guilty of the charge; that caſe we all know, and, when it is farther debated, I will tell you my thoughts. 'Twill be neceſſary that the King ſhould know, that no Pardon is pleadable in Bar againſt an Impeachment of the Houſe of Commons.

Sir *Joſeph Tredenham.*] Though the Pardon mentioned was pleaded to an Impeachment, yet it never came to an

Act

Act of Attainder. I remember, in the Debates then you had ſome Precedents of *Edward* III, of ſome that pleaded Pardons. The *Spencers* in *Edward* II, in *Richard* II's were pardoned Impeachments in Parliament. Not that I ſtand in Juſtification of Perſons accuſed, but certainly 'tis for the advantage of the Crown, and its Prerogative is to its own Benefit. I would have a matter of this dangerous conſequence remedied by a Bill, but I believe it is not Law already.

Sir *Henry Capel.*] I have obſerved, that of late years great Attempts have been made againſt the Government to pluck it feather by feather. If we have nothing to do here but give Money, is it a Parliament, or a Senate of *New Rome*, to ſet rates upon Fruits and Cheſnuts? 'Tis of the greateſt conſequence in the world that ſaying, "that the King does no wrong;" but who muſt be anſwerable for the Miſcarriages in the Government, but the Miniſters? In *Germany*, though he be a Sovereign Prince, he is accountable to the Aſſembly of Princes for his actions, where all things may be redreſſed. If the King's Miniſters, after ill Adminiſtration in their places, may plead their Pardons, you have not one King but twenty. I would have but one King, and the Miniſters, who are our Fellow-Subjects, are queſtionable as ourſelves. You are told of a Bill of Attainder, and that is a ſummary way of Proceeding, you may read it; but if not by Impeachment, it is a good way to prevent all proſecution of Offenders. Pray put the Queſtion, "That an Impeachment of the Houſe of Commons is a Bar to all Pardons."

Sir *Richard Temple.*] If it be ſo, I would declare it, but if not, make no reflection on it. Formerly there were Appeals of Treaſon, and thoſe the King could not pardon; but by *Henry* IV all Appeals of Treaſon were taken away; as well as in Murder and Felony, the King could not pardon. I would gladly hear the Long Robe declare that this is a Law. I ſhould be glad if we could come at it, and I ſhould have no tenderneſs for thoſe who have violated the Laws and Liberties. You may make void Pardons, by Act of Parliament, as in the Caſe of the Archbiſhop of *York*, which was voided. I profeſs, I am doubtful, when no man has aſſerted this to be the Law of Parliament.

liament. 'Tis not in the Houſe of Commons to declare Law but in a Chriſtian Way, and an Act may be made, for the future, to ſettle the matter. I would not aſſert a thing we cannot make good elſewhere.

Sir *William Williams.*] I am called up by *Temple*; he has refreſhed my memory. If a Subject be murdered, the next of kin may bring an Appeal, and for that reaſon an Impeachment is not pardonable, becauſe it is at the ſuit of the Subject, and an Impeachment is an Appeal of all the Commons of *England.* He mentioned an Addreſs in *Edward* III's time, "that no Pardons ſhould be to Perſons impeached," and it was reſolved in the Negative, and the Commons ſat down by it; but God forbid, all Addreſſes ſhould be objected, which are done in modeſty! Can he give one Inſtance; that ever a Pardon of an Impeachment was allowed in Parliament? The Law of Reaſon is for it.

Sir *Robert Howard*] I have no mind to ſpeak for this caſe, that the Commons ſhould have this turned into a Law; we ſhould be ſo fatal a People that all your Petition of Right would be damned by it, and muſt that have a blemiſh upon it, becauſe you deſired it? And you confeſs it is not Law, becauſe you deſire it to be made Law. If that argument be ſo, whatever you deſire to be a Law, is not lawful till confirmed.

Mr *Ettrick.*] The Lawyers of *Weſtminſter-Hall* know little of this matter. It is of great conſequence one way as the other, either to the King's Prerogative, or the Right of this Houſe. As to the inconvenience, it ſeems extremely wrong on one ſide, if one way, he muſt have a Pardon; and in pleading that Pardon, if the Lords ſhould hold the Law to be otherwiſe than you do, you will have a foil in the matter. The King's Prerogative will have a great conſideration here, as well as in the Lords Houſe. I move that you will go on with the Heads of the Indemnity.

Mr *Hawles.*] Something of the King's Prerogative I hear offered, but if we go to the Precedent or Judgment upon Pardons pleaded, we muſt go to a parallel Caſe. This is an Appeal to an Impeachment, and then a parallel Caſe will carry it. The King cannot pardon, in a private Caſe of an Appeal, much leſs what is againſt the Public. As to what

what is ſaid of the Statute which takes away Appeals of Treaſon, it was from private Perſons to appeal one another in Parliament, as in the Caſe of Lord *Mowbray*, and the Earl of *Hereford*, they were private Animoſities. If you allow Pardons, there is an end of the Caſe, and they need not plead a Pardon in Bar, but in Abatement only. In that mentioned of *Edward* III, *&c.* there is a little weight in that.

Mr *Brockman.*] I wonder this ſhould be ſo debated now. I remember a ſtamped Pardon by Creation. I appeal whether this did not formerly occaſion Conferences? Lord *Angleſea* managed for the Lords, and as great a Debate was upon it then as now, and the Lords agreed, "that it was no Bar to an Impeachment;" and in the next Parliament was the ſame thing debated, and another Debate did ariſe of the continuance of Impeachments in intermiſſion of Parliament; and it was concluded, "that in intermiſſion of Parliament there was no diſcontinuance of Impeachments." You may ſee the Journals, that all this is true in fact.

Sir *Chriſtopher Muſgrave.*] If that be already ſettled, then the Point is well declared already. I doubt the Lords did not declare it.

The Speaker.] This Houſe did declare it, and demanded Judgment of the Lords, upon Lord *Danby*'s pleading; therefore before you give your Judgment, ſee how the method ſtands upon your Books.

Sir *William Williams.*] Lord *Stafford* was impeached in one Parliament, and attainted in another.

Reſolved, That it is the Opinion of this Houſe, that a Pardon is not pleadable in Bar of an Impeachment in Parliament.

Sir *Robert Howard moving in favour of Dr* Oates's *Judgment* *, *ſome Gentlemen hiſſed. He ſaid*] Such Gentlemen as did it I ſhall not be reconciled to, unleſs they

* *Oates* was convicted of Perjury (in 1685,) on the Evidence of the Witneſſes from *St Omers*, who had been brought over before to diſcredit his Teſtimony: And he was condemned to have his Prieſtly Habit taken from him, to be a Priſoner for Life, to be ſet on the Pillory in all the public places of the City, and ever after that to be ſet on the Pillory four times a year, and to be whipped by the common Hangman from *Aldgate* to *Newgate* one Day, and the next from *Newgate* to *Tyburn*; which was executed with ſo much rigour that his back ſeemed to be all over flead. This was thought too little if he was guilty, and too much if innocent, and it was illegal in all the parts of it. *Burnet.*

have

love Whipping and perpetual Impriſonment, and no confirmation of the Popiſh Plot. I do acknowlege the Lords the Supreme Judicature in Parliament; but I know the Legiſlative Power may repeal a Judgment they have given. The Lords have affirmed the Judgment in the *King's Bench* againſt Dr *Oates*, and that a Miniſter of the Church of *England* may be degraded of his Prieſtly and Canonical Habit there: I hope Gentlemen of the Church of *England* are not of this Opinion. This was a temporal Judgment, and Lord Chief Juſtice *Jeffreys* gave it. The Lords have worded the Judgment in one place "barbarous," and an *Algerine* Judgment for an *Engliſh* crime. With all my Heart let *Oates* be brought to Tryal for Perjury, but nothing can be more fatal to the *Engliſh* Nation, than that his teſtimony ſhould be ſufficient againſt Lord *Stafford*, and yet he be convicted of Perjury. This may confirm ſuch Judgment for the future. The Judges all preſent in the Lords Houſe gave their Opinions, "That the Judgment againſt *Oates* was contrary to Law, and erroneous, and ought to be reverſed." Now I have ſaid all this, I would not have *Oates* exempted from Tryal of Perjury, but not the Judgment of the *King's Bench* confirmed, to have theſe fatal effects; Impriſonment for Life, Pillory, Whipping, and to confirm the *Popiſh* Plot, to ſuppreſs all that, and it may be to reverſe the Attainder of Lord *Stafford*. and void that Tryal. The Lords have found no Error in the Record, and therefore have adjudged the Judgment, and affirmed all the Parts of it; and now I leave you to judge, whether a Bill be not fit to be brought in to reverſe all this.

Mr *Howe*.] 'Tis ſtrange that *Oates*, who has ſaved the Nation—and if now there muſt be a Queſtion of the Popiſh Plot—I am for forgiving faults—The *Romans* had a reſpect for the Geeſe that ſaved the Capitol, and would not let them be killed. At this rate, *Johnſon* * muſt be whipped again. I am ſo much for the Church of *England* that I abhor all theſe Proceedings, and ſo much againſt the two laſt Reigns—Poſſibly it is the Intereſt of ſome Perſons that no Witneſſes may be believed. I ſecond *Howard's* Motion.

* Lord *Ruſſel's* Chaplain, moſt cruelly whipped, fined, pilloried, &c. for his writings, in 1686.

Sir

Sir *William Williams.*] If Perjury be excepted out of the general Pardon, *Oates* will be excepted, and you cannot remedy it but by a Bill. I ſpeak not for the ſake of *Oates*, but for the Lords and Commons. By this great Example, the little Dogs will bark after the great Curs. The Lords have affirmed this Judgment, and there is no way to void it, but by an Act of Reverſal. 'Tis not fit that it be mingled with the Indemnity, but be by itſelf a Reverſal, that ſuch villainous Judgment may not be executed upon any Commoner to be thus treated for the future—And you have no way to void it but by Act of Parliament.

[*June* 5, Faſt-Day; *June* 6, 7, 8, and 10, Omitted.]

Tueſday, June 11.

On the Heads for the Bill of Indemnity.

On the Judgment againſt *Oates*, reported out of the Lords Journal.

Sir *Robert Howard.*] By your Order, we have inſpected the Lords Journal, and have examined the Buſineſs of *Oates*'s Judgment affirmed by the Lords, *viz.* "The Lords find no viciouſneſs nor defect in the Judgment; therefore 'tis here averred, and ſhall ſtand in full force and virtue;" and ſo entered upon the reſpective Roll. Having ſaid thus much, I ſhould not have troubled you with it, had I not thought it as great a thing as could come in Parliament. I am zealous in one thing, not to blacken all things relating to Proteſtants, and whiten Papiſts. The riſe of this began upon the condemnation and cenſure of two Parliaments, in the Buſineſs of the Excluſion of the Duke of *York*, *&c.* Then it was when a Popiſh Succeſſor was thought no ill thing by the Lords, and then it was that a Popiſh Succeſſor was excluded by you; when the ſtrenuous aſſertion of that became a merit at Court, then the Attributes of a Popiſh Succeſſor were aſſerted; to ſecure this great Buſineſs, to ſecure a Popiſh Succeſſor, came on the ſurrendering Charters of Corporations; when Judgments of Law came to be given on the Perſon, not the Cauſe conſidered, there grew the riſe of a Popiſh Succeſſor, the violation of the choice of Sheriffs, Corruption of Judges, and their extraordinary Cenſures, which produced this Judgment

ment on *Oates* and *Johnſon*, one of the greateſt Perſons of the Nation: He ſuffered under this, and was ſtripped of his Miniſtry. I am heartily ſorry this is come before us, but I am afraid that the affirming that Judgment condemns all we have done, and whatever the Papiſts have done is juſtified, and the Proteſtants condemned. *Oates* is the leaſt of my thoughts, but to have *Oates*'s Judgment confirmed, and we all reproached for it, that ſticks with me. Unleſs we are grown fond of *Jeffreye*'s Judgment, which condemns all we have done. I move for a Bill to repeal this Judgment.

Serjeant *Maynard.*] We do not know yet what Judgment this is, affirmed by the Lords. I deſire the Judgment may be read.

Sir *William Williams*] Read the Judgment, and then you may have recourſe to the Record, on Occaſion.

Serjeant *Maynard* *.] I was in Court when *Oates* was tried: He was indicted on two Points; ſuch a thing, ſuch a time ſuch a day, but he was not there at that Time, and pleaded Not guilty. There were eighteen or nineteen *Jeſuits* ſworn againſt him from *St Omers* College. I never ſaw Evidence delivered with more vigour than that was. He would have begun with the latter, but the Chief Juſtice told him, "that was his worſt way—Truly if he was not at *St Omers* at the time, all would fall." I was preſent when he gave his Evidence in this place; he ſaid it once, and twice, and varied it not, but ſome would have it a third time, I was againſt it. He was aſked particularly here of a Perſon of Quality; he could not ſay it was the Duke of *York*—His Evidence was affirmed by ſeveral Tryals—It cannot be imagined who ſhould ſuborn him. Two of his ſervants were ſuborned to ſwear things againſt him of a filthy nature. Theſe two Witneſſes were examined, and it fell out, one croſſed the other in the Evidence. Says one, "'Tis true." Says another, "'Tis not true." Why ſhould theſe two ſervants ſwear voluntarily againſt *Oates*, unleſs ſuborned? There is a Man called Sir *Roger*, who, under the pretence of maintaining Church, publiſhes, "that *Oates* alone was a ſingle Evidence againſt the Duke of *York*;" and, "that every Magiſtrate, or chief Governor, may forbid any Religion, and to do this, the King has two advantages, he has Law, and Arms."

* The Compiler heard him imperfectly.

This Sir *Roger* publiſhed before *Oates*'s Tryal—Whether true or falſe, *Oates* was an Enemy to the Popiſh Religion—I ſpeak this but to the purpoſe, eight or nine ſwore poſſitively he was at *St Omers*, and he had Evidence to prove that he was not. He was convicted of Perjury only in matter of time, which he had four or five Witneſſes to prove, but could not be heard.

Mr *Hawles*.] You have heard of ſome People that diſown the Government, and diſperſe Pamphlets; and no wonder, when the worſt Judgment that was ever given in Law is affirmed by the Lords. There is no ſuch Judgment in Law againſt any man, nor ever ſo exacted, and this gives occaſion for People to talk, "that one Houſe was for it, and another Houſe againſt it." This Verdict coſt the King two thouſand odd hundred Pounds. I have known, that when a Jury have had a Guinea more given than ordinary, that Verdict has been ſet aſide as if given amongſt them. If a Jury goes againſt the Humours of the Court, as in *Willmore*'s Caſe, and others, they are brow-beaten, and as the Jury are uſed, ſo are the Witneſſes—And this very morning a Gentleman, who did undertake to prove *Ireland* in *London*, was checked for it.—Sir *Patience Ward* and Sir *Thomas Pilkington*'s Information of Perjury—I would have this Judgment againſt *Oates* called "a cruel and illegal Judgment," and ſo to vote it.

Serjeant *Maynard*.] To vote this Judgment ſo here, will not do your work, for here is the Judgment of the Lords againſt your Vote; you muſt do more; for when there is a Record in the *King's-Bench*, there it remains. I would not meddle with the Judgment that the Lords have given, but you may complain of it as a Grievance, and may ſo take notice of it as a ſtab to our Liberties. Vote this illegal, and you have the Opinion of the Judges in the Lords Houſe with you; vote it a Grievance, and you may have this Judgment cancelled.

Sir *William Williams*.] I think this will be too little. The Lords are a Court, and have recorded their Affirmation, and it is paſt their power to reverſe it, and it is not ſafe for the Judges to give another Opinion in the *King's-Bench*; but if they have the Countenance of this in the *King's-Bench*, the Lords themſelves may feel it.

This

This Man is a Clergyman, and to be unrobed, and diveſted of his Orders in the *King's-Bench*, and ſo to continue during his Life—How a Court of Law can do this, I am unſatisfied. But what we are to conſider of is this, whether a Subject ſhould reſt under that Judgment. There may be a Precedent for whipping, but for all theſe parts in one Judgment, let any man give us a Precedent to ſquare with that Judgment. It makes the Judges arbitrary, and hereafter the Judges may be moſt injurious in puniſhing, this Judgment having had this Sanction in the Houſe of Peers. This is the Caſe; and what is there fit for us to do? But one thing; and that is to reverſe the Judgment, by Act of Parliament. Go in the ordinary way of the Legiſlative Power, and not by the declaring this or that, but a reverſal of that Judgment, as illegal. If we vacate the Judgment only, that will not do; the conſequence will be that we muſt admit it for the future. But if, by Law, you declare it illegal and erroneous, there is an obvious objection, "that the Lords will not agree to the Bill;" but that is no anſwer to me, for the Lords will do it, and have reaſon for it, for the Judges gave their Opinion againſt it, (but that is not upon Record) I do not deliver it as Hiſtory, but it confirms my Opinion, that you have opportunity to reverſe it by Bill, as illegal, and that is worth a thouſand Votes. The Writs of Error that *Oates* brought are upon two Records, and they are both entered affirmed in the *King's Bench*, ſo that it cannot be vacated but by Bill of Reverſal.

Col. *Birch.*] We are now a great many Gentlemen met here, who were not here in the Examination of the Plot. According to my Place and Ability, I had in the Chair much of the Examination that went through my fingers, which was ſo clearly proved, that all *England* was ſatisfied, as well as the Lords and Commons. I know no blow can be given like this to the Lords and Commons. We well know who they were that did what they could to make this Plot a ridicule, but when a jeſting buſineſs could not do, they took all the ways they could to ſuppreſs it. Under a Popiſh Prince, I expected much more than from *Omers*; I dare not call it *St Omers*; and now that any Body ſhould be ſo bold as to pin this at our

Breeches, let them anſwer it. The Houſe was diſſolved, or elſe I had made a warm Report on the *Monday*. But as the Commons are made black by this Judgment, ſo I would have a Bill to make ſomebody black too, and if we are denied it, to go home with Honour, and they with Shame. As they made us black, ſo the Bill will waſh us, and lay the black where it ſhould be.

Mr *Howe.*] I am ſorry we are under ſufferings; ſtill the ſame hands are upon us. If we have a Bill to vindicate ourſelves, we are ſure the People will vindicate us againſt them. I would vote this Judgment "illegal, cruel, and a Grievance."

Mr *Boſcawen.*] The affirming this Judgment is not for *Oates*'s ſake, but for the ſake of the Popiſh Plot. I think there was ſo much art uſed to get that Judgment, that, for that reaſon, I would lay it to heart. I wiſh, the ſame ſpirits have not the influence to do the ſame things again. I think it not amiſs to add to the Queſtion, "That it is your Opinion that this Judgment againſt *Oates* was a deſign to ſtifle the Popiſh Plot, and by ſuch arts as 3000 *l.* ſpent upon the Tryal." I would have ſomething of that in the Queſtion.

Sir *Henry Capel.*] This Judgment has a bottom deeper than I can well expreſs it; it coſt diſſolving three Parliaments. I remember when the Crown and Robes were carried in haſte in a Chair at *Oxford*, to diſſolve that Parliament, when we were upon the Point of diſcovering *Fitzharris*'s Plot. If we paſs this Judgment by, we approve all this. If you add to your Vote, "upon ſuppreſſing the Popiſh Plot," the World will then ſee the reaſon of your Vote, and the occaſion of this Man's Tryal, and the World will know it was upon the Popiſh Plot.

Mr *Foley.*] We have the Judgment before us, and what it coſt, but, beſides that, many have had continual Penſions ſince. Sir *Thomas Whitgrave* of *Staffordſhire* has had one, and no waiter. Therefore I move as before.

Sir *Thomas Lee.*] Every body has agreed in the end; we differ only in the means. The conſequence of this Judgment affirmed will affect every body, and, perhaps, if to do again, would not be done; the conſequences were

not

not foreſeen as obſerved. 'Tis to eſtabliſh a Rule of Puniſhment hereafter. But conſider, *Oates* was not the ſole Evidence that convicted Lord *Stafford*; therefore reſtrain your Vote to that Queſtion.

Sir *William Williams*.] One Record of *Oates*'s Conviction relates to *Ireland*, the *Jeſuit*; we have all that Tryal, and *Whitebread*, all founded on Popery; do but deem the Judgment to be "cruel and illegal," it will do the Buſineſs.

Mr *Hawles*.] I like the Queſtion relating to the Plot. I have as ill an Opinion of thoſe that gave the Money as the Clergyman that ſwore. I move that you will declare the Verdict "corrupt."

Sir *Robert Cotton*, of *Cambridgeſhire*.] I am for the Queſtion to go ſingle, "illegal;" as it concerns every particular perſon, ſhould you clog it with the "Corruption," People will think it ariſes from Corruption, and not from the nature of the thing.

Sir *William Williams*.] The affirming of the Judgment by the Lords is the main Judgment; if you reverſe only that in the *King's Bench*, we have not our end

Mr *Garroway*.] If ever we obtain this Bill, you have your end; therefore avoid all words that may gain a diſpute betwixt the Lords and us.

Sir *Thomas Lee*.] The Judgment againſt *Johnſon* was but a bare Miſdemeanor for a Libel; therefore take that within your Bill.

Sir *William Williams*.] Paſs a Vote upon that Judgment only, for in that you may go in the ordinary way, and I believe the Lords will reverſe it.

The Speaker.] That againſt *Johnſon* is but barely Information for Miſdemeanor. As for the degrading, that is no part of the Record.

Sir *Thomas Lee*.] I obſerve one thing, in the reverſal by the Lords. I would have the Buſineſs of the Ship-Money looked into. They did not leave that Judgment; and to that particular Judgment the thing was at an end; but they did it by a Bill. 'Tis not your part, as the Commons of *England*, to bring a Writ of Error, Pray let one Bill ſerve for all.

Sir *William Williams.*] I would not have recourſe to the laſt remedy, but in the laſt caſe: I would not do it by Bill. In the caſe of Lord *Holles* and *Valentine*, the Judgment was againſt the Privilege of the Houſe. The Record was read in the Houſe, and voted "an illegal and a pernicious Judgment," given in 5 *Charles.* It was voted 1667*. 'Twas a long time before that Judgment was taken notice of; and, at a Conference, the Commons brought the Vote to the Lords, and they agreed the Judgment "illegal and pernicious;" and voided the Judgment.

Sir *Thomas Lee.*] I am not willing to run into controverſy with the Lords unneceſſarily. I remember that Judgment in Lord *Holles*'s Caſe delivered at a Conference*. I have obſerved, that, in ſeveral things, the Long Parliament made Votes, and no more, and did not know the conſequence. At the Conference, the Commons carried up the Vote; and when the Lords agreed it, they began to reflect, "We have let the Commons into Judicature;" therefore they put Lord *Holles* upon reverſing it, by Writ of Error, thereby never to let the Commons into Judicature.

Reſolved, That Bills be brought in to reverſe the Judgments againſt Mr *Oates* and Mr *Johnſon*, as cruel and illegal.

Wedneſday, June 12.

On the Heads for the Bill of Indemnity.

Col. *Birch.*] I did moſt heartily bleſs God, that the Parliaments did what they did, in the laſt Parliament; if they had done no more than what they did in relation to the Teſt, and Popiſh Plot, we ſhould honour them. As to the Popiſh Plot, do what you will, but pray meddle not with Parliaments: If any ill things were ſaid in that Parliament, let them go, and thank God things were no worſe.

Sir *Thomas Clarges.*] I am ſorry you are diverted from the buſineſs of this day, upon account of that Parliament. There was a great deal done there for the Proteſtant Religion; but the great fault of that Parliament was, that it was filled with people depending upon the Court. I

* See Vol. I. p. 37, and 47.

cannot

cannot ſay there were Penſions then; that was the great fault of the Long Parliament: I hope we ſhall ſee no more ſuch. There was an Addreſs to the King, in that Parliament, about the Teſt; a worthy Gentleman (Mr *Finch*) was thrown out of his Place about it: But if the Queſtion be, what things were ſpoken in that Parliament, (though there were things ill enough) Parliaments may have great diſcouragements for the future. I hope thoſe who did amiſs then, have repented; and pray put no diſcouragements upon people for what they have ſaid in Parliament.

Serjeant *Maynard.*] No account is to be given out of the Houſe, for what is done there; the account is only to be given here, elſe you ſhut up all our mouths; and I move you to put this off from your hands.

Sir *Robert Howard.*] 'Tis not at all the Queſtion, what was ſaid in King *James*'s Parliament, but what was done worth taking notice of againſt the Proteſtant Religion. One thought it worth their pains to turn over the Journals of the Excluſion-Parliaments; another, ſpirited with Claret, ſeconds the Motion. I ſhall never forget a worthy Member *(Clarges)* holding two Speeches of King *James* in his hand, and declaring them contradictory to one another. I ſhall ever honour him for it. We are ordering a Committee to inſpect the Journals relating to the Plot, in order to the matter yeſterday relating to *Oates*; which I think very fit to be done.

Mr *Sacheverell.*] As for the proceedings of that Parliament of King *James*, nobody will juſtify it in many reſpects. I would have a retroſpect, in the Indemnity, of raiſing Money againſt the Law; but if this ſhould rake into a great number of perſons, I am againſt it: But if there be one or two of them now about the King, I have no ſuch kindneſs for my brother, if he ſtands before me in this matter; but perſons that may be of uſe, I would be tender of; but if he give a jealouſy to the Nation, I would part with him, though he was my brother. Pray let nothing put an inſecurity upon *England*'s intereſt.

Mr *Howe.*] To explain my Motion about Inſpection into the laſt Parliament, they who thought the word

"Proteſtant" not fit to be in an Addreſs to King *James*, and to leave out the word "Popery," are not fit to ſit here; and I would take ſome notice of it. *(He meant Mr* Bickerſtaff.)

Sir *John Trevor.*] I deſire the Journals of that Parliament may be inſpected. Care was taken, both at the Committee, and in the Houſe, then; and you will find the Report was never then made relating to the Popiſh Plot; but, in relation to the Inſpection, the direction was only for "that part of the Journal relating to the Bill of Excluſion, to be expunged."

Mr *Godolphin.*] I had the honour to be of that Parliament ſo reflected upon. I was out of *England* when I was choſen. I cannot juſtify all that Parliament did; but as for what is ſaid, of their giving what was aſked, it did neither give Land-Tax, Poll, nor Subſidy; but that Parliament was for the Proteſtant Religion, and ſuppreſſed two Rebellions in *England* and *Scotland:* I wiſh other Parliaments may do as well. I would not have Enquiry made into mens actions in Parliament, leſt after-Parliaments may do the ſame by you.

Sir *William Williams.*] For that very reaſon, I would look into what they did amiſs. One Parliament may queſtion another; but to offer it as an argument, "becauſe others are queſtioned, we may be," 'tis an argument of our ſincerity. Let this, and all Parliaments, be queſtioned.

Mr *Howe.*] As to what *Godolphin* reproaches us of "Taxes and Poll," I hope we ſhall never attaint men, and ſeize their Eſtates, without Evidence.

The Debate went off, and the King's Letter was read relating to the Indemnity, [dated *Jan.* 22, 1688.]

Sir *Robert Cotton*, of *Cambridgeſhire.*] The Advice the King has given in his Letter may contribute to the forwarding the buſineſs of the Indemnity, and ſatisfaction of the Nation. Nothing will more ſettle the Nation, than a quiet peaceable ſpirit amongſt ourſelves; and as the King has expreſſed great kindneſs to his Subjects, ſo I hope we ſhall proceed with that temper as may quiet the Nation, by as much moderation and unity, in naming the

the perſons to be excepted, as poſſibly the nature of the thing may bear.

Mr *Howe.*] Pray lay a foundation: No man that has a falling houſe will live in it with props. For want of a foundation, a new building can never be ſtrong. As to the King's Letter about the Indemnity, I wiſh it may be ſo for ever; but, as I wiſh to God we may forget what is paſt, ſo likewiſe that we may puniſh thoſe who endeavoured to deſtroy our Liberty and Religion. Some, in the worſt of times, did die Martyrs for it. As I would forget, ſo I would not confirm, all the ill things in time paſt. I would have as few excepted out of the Indemnity, as may be pardoned, as any man; but I would not give encouragement to exerciſe the ſame thing on to poſterity. The Guilty are in haſte to be forgiven, and the Innocent fear a return of the ſame ill things. I hope we ſhall have a temper in what we do.

The Record of Sir *Edward Hales*'s Caſe * was read.

Sir *John Guiſe.*] If you intend to except any perſons out of the Indemnity, you have now an occaſion. We hear who the Judges were that gave their opinions in this caſe. I hear *Jones* and *Wythens* were ſo; pray make them Examples.

Mr *Howe.*] You are going upon a Company of Judges, like the *Eaſt India* Company; they were the inſtruments, but thoſe who put them upon it, and adviſed, are rather to be excepted; but if you name a Committee to bring in the names of the Counſellors, then you may chuſe whom you will make Examples of, and diſtinguiſh them from honeſt men. Thoſe who built theirs upon our misfortune, go about ſtill in the World, and make ſpeeches

* Sir *Edward Hales*, a Gentleman of a noble family in *Kent*, declared himſelf a Papiſt, though he had long diſguiſed it. He had an employment, and not taking the Teſt, his Coachman was ſet up to inform againſt him, and to claim the 500 *l.* that the Law gave to the Informer. When this was to be brought to Tryal, the Judges were ſecretly aſked their opinions; and ſuch as were not clear to judge as the Court did direct, were turned out; and, upon two or three canvaſſings, the half of them were diſmiſſed, and others, of more plyable and obedient underſtandings, were put in their places. Some of theſe were weak and ignorant to a ſcandal. The Suit went on in a feeble Proſecution, and in *Trinity* Term Judgment was given. *Burnet.*

in

in vindication of what was done. I hope we ſhall proceed ſo as no man may have reaſon to blame us.

Marqueſs of *Wincheſter*.] The Prince's Declaration turns all upon evil Counſellors: I hope they are gone away with King *James*; but if they ſtill remain here, thoſe are the perſons you aim at, who ſat with King *James* from the firſt to the laſt. I move for a Committee to inſpect who thoſe were, and then you will ſee whom to except.

Mr *Hawles*.] I wiſh you had gone on in order of time. This is the laſt, though firſt read. I think the Judges, and that Attorney and Sollicitor (I know not who they were) I think they ought to be under one head, and Sir *Edward Hales* another.

Sir *Thomas Lee*.] I have ſometimes ſat here when miſcarriages have been ſpoken of, and have heard an ingenious Gentleman ſay, "Take them not as a whole faggot, but ſtick by ſtick, and you may break them." Take them man by man, and you may come to your end.

Mr *Hawles*.] Let the Committee enquire into the Proceedings of Lord Chief Juſtice *Herbert*, and Juſtice *Wythens*, and you may know all.

Mr *Howe*.] Before you take out a ſtick, lay all the faggot before you. Let us know all the Criminals, and then except whom you pleaſe. I move for a Committee to bring in the names of them all.

The Speaker.] That of Sir *Edward Hales* was a fictitious Plea.

Mr *Hawles*.] You will find it was a real Plea: Send for the Clerks of that Court, and they will inform you, that *Hales* was at 60*l.* charge in the Suit.

Mr *Foley*.] I cannot ſee how we can proceed, unleſs by a Committee. Other Judges are more criminal about the Diſpenſing Power, than thoſe named. Where a Judge's opinion was for diſpenſing with one man, he is not ſo great a Criminal as thoſe who gave their opinions for diſpenſing with all. Till that be reported, you cannot give an opinion.

Sir *William Williams*.] I doubt we are going into a wood. You have received the Record of *Hales* and *Godden*; the Committee muſt know the matter by Record,

cord, or Witneſſes. It was *Eaſter* Term, 2 *James.* Go into the Courts, and you will ſee who were Judges that Term. If I was a Judge, I would confeſs the thing immediately. Why ſhould things be concealed? It looks as if we were afraid; as if all were infected.. All know that *Herbert* was the firſt, *Wythens* the ſecond, *Holloway* the third, and *Wright* the fourth. Having ſaid this, pray take my memory as you will take other Gentlemens. As for the *Common Pleas*, (I think *Benefield* is dead) *Streete* ſpoke againſt it, for his reputation, the only man—(*Milton* and *Alibone* are dead)—Lord Chief Baron *Montagu* left his place upon it; Barons *Atkins* and *Jenner* were for it: I ſpeak only on my memory. Certainly, when that accurſed Judgment was given, thoſe who concurred with the reſt are moſt to blame. *Herbert* ſpoke his own judgmeht, prompted by the reſt. No man can alter his judgment without deſign. A man that had this byaſs, and found the reſt of the Judges inclined, was confirmed in his opinion. I take them to be equally culpable—*Herbert* is abroad, and not here to excuſe himſelf. The reſt are dead, and have anſwered it in another place.

Mr *Hampden.*] Let a Committee be appointed to enquire into thoſe concerned, in every Head, and then report it, and you may be then ready to go on with the names of the perſons. My chief reaſon is, I would not have you go upon perſons without good proof; not upon general fame; elſe, inſtead of doing juſtice in Parliament, you will expoſe their reputation.

Sir *Joſeph Tredenham.*] This Enquiry implies, that the perſon ſo excepted out of the Indemnity ſhall not have the mercy of this Houſe, nor of the whole Kingdom. Every Gentleman, before he gives his reſolution, will ſatisfy himſelf in the matter of fact; and any man is capable of ſeeing the Record. As to Sir *Edward Hales*'s caſe of Diſpenſation, books have been publiſhed, and I ſhall ſay the leſs of that; moſt Gentlemen, I preſume, being ſatisfied. *Herbert* has written his own Juſtification, and it has with me ſome weight. As to the general Declaration, I could never find any thing in my reading to juſtify it, it pulling all up by the roots, and the Law of no force; nothing like it but the Caſe in *Charles* II. Whoever

ever will follow ſuch a Precedent, ſo juſtly decried by all people, deſerves to be puniſhed. Where there is juſt cauſe, you may proceed to Exception, and let Juſtice go with Mercy.

Sir *Robert Howard.*] I ſuppoſe you will go farther than the four Judges; to the Adviſers and Promoters of the Judgments. But how will you be informed, and bring perſons to do it? The only way to do it is to name the perſons viſible, and who are matter of Record; without a Committee, it is impoſſible to have names. Therefore I move, that you will go upon the ſeveral Heads, and thoſe to be referred to a Committee, to name perſons in relation to thoſe Heads. When theſe are all before you, the Names may be put to the Heads, and you may proceed upon them.

Sir *Thomas Lee.*] I would underſtand what it is you are about; whether an Act of Indemnity, or Pains and Penalties? I conceive you are not going by Impeachments, and I ſuppoſe you are not ſetting up an Enquiry, who was of this opinion, or who that; if ſo you muſt go all *England* over. No man can miſs the Name of a man, if he pleaſe, they have been ſo notorious. Theſe Heads lead you to every man you will except, and theſe are obvious.

Mr *Brewer.*] Whoever the Judges were, they are great Criminals; but I would have the Offence certain. I dare ſay, no Judgment was ever given in the Declaration, but you may know who were Judges in the *King's-Bench* then.

Mr *Howe.*] I ſuppoſe it is not deſigned that you ſhould except all thoſe Names, and we do it at Committees. We have begun this Head, though one of the laſt of Grievances—But I would have them diſtinguiſhed from mankind. I would know thoſe who broke the hedges, and let in the cattle; and then ſee who you will except, and who you will forget.

Sir *Robert Cotton*, of *Cambridgeſhire.*] I am againſt a Committee: I think it will alarm the whole Nation. I think the former Indemnity did quiet the Nation, and I hope this will. I think there needs no Committee to inform you who the Judges were, who the Lord-Lieutenants, and who concerned in Corporations; perſons ſo notorious,

notorious, and ſo well known, that the whole Nation can diſtinguiſh them; therefore I am againſt a Committee, *&c.*

Sir *Robert Howard.*] I do not apprehend the danger of a Committee. I wonder at this doctrine, "that a Committee ſhould alarm the Nation." Is it not an Alarm to the Nation to have a Diſpenſing Power, and Judgments againſt Corporations? I wonder this ſhould go ſo high (as is ſaid) to "alarm the Nation." No ſuch Offences were known before; ſuch Powers were never known before: The very roots of Parliament deſtroyed. I ſhall not be zealous in contending, whether you will have a Committee, or no, to enquire into Perſons; but you muſt have a Committee to enquire into the Courts of Juſtice; and I move, that you will go upon Names; and I think it will be for the content of the People, and not to "alarm" them.

Mr *Hawles.*] I know not the cuſtom heretofore, in Bills of this nature; but I ſee no inconvenience in a Committee. The Officers of the Court may give the ſame Information to a Committee as to the Houſe. 'Tis the ſhorter way to examine it before a Committee, only to enquire into Officers and Judges. It may tend to expedite the matter.

Mr *Ettrick.*] I deſire an end of this as much as any man. The Judges are going the Circuits, and the Jails are full: Your Act may come too late into the Country. To enquire into the Adviſers and Aſſiſters will take up a great deal of time. Thoſe who were notoriouſly exemplary I would put a mark upon; and let the others go off without any mark, and clear.

Mr *Sacheverell.*] I have not known, but if Gentlemen are willing to relinquiſh a Queſtion never put, but that it has been laid aſide; and pray put no difficulty upon the Houſe.

The Speaker.] I moved it; and Gentlemen ſaid, "No, no."

Col. *Birch.*] If I knew the man, the mark you would ſhoot at, I could ſpeak better. 'Tis a plain Queſtion, "Whether you will refer it to a Committee, or no?" If to a Committee, then you are to give Inſtructions.

Mr

Mr *Coningſby.*] This Bill of Indemnity has been called "a walking Ghoſt;" and if you adjourn the Debate, it will always be a Shadow, and not regarded; therefore I am for going on.

The Queſtion for a Committe paſſed in the Negative.

Sir *Thomas Lee.*] I hope one day more will bring an end to your Reſolutions in this matter of Names. Sir *Edward Hales* has been named, and if I name a perſon with King *James*, I do nobody any harm. I name Lord Chief Juſtice *Herbert* * to be one excepted.

Mr *Howe.*] I am againſt naming *Herbert*; it was his opinion, and he was guilty of no other fault; he has modeſtly retired, and left our company. I would leave him out.

Ordered, That the Officers of the *King's-Bench* bring in who were the Judges in Sir *Edward Hales*'s Caſe, *&c.*

Thurſday, June 13.

On King *James*'s Declaration.

Mr *Hampden.*] Before you read the Declaration, I would not have it paſs for doctrine, that there is no Treaſon but what is declared by 25 *Edw.* III. If you take not that for granted, we ſhall never be ſafe, nor any Government, if you cannot declare Treaſon. There are other ways of deſtroying the Government than by raiſing Armies. But it would be ſtrange if you ſhould not call that Treaſon, which is *tantamount* to Treaſon. Read the Declaration, but let not that paſs for doctrine.

Col. *Birch.*] I did expect this, and ten times more, when a Bill from the Lords lies by us about Treaſon. I deſire one of thoſe Declarations may be read, found upon the perſons taken.

Sir *Robert Clayton.*] I found my Lord Mayor, at his houſe, examining thoſe perſons; and the people that took them took theſe Declarations upon them.

* There was a new Chief Juſtice found out, very different from *Jeffreys*, Sir *Edward Herbert*. He was a well-bred and a virtuous man, generous and good-natured. He was but an indifferent Lawyer, and had gone to *Ireland* to find practice and preferment there. He unhappily got into a ſet of very high notions, with relation to the King's Prerogative. His gravity and virtues gave him great advantages, chiefly his ſucceeding ſuch a monſter as had gone before him. So he being found to be a fit tool, was raiſed up all at once to this important poſt. *Burnet.*

The

The Declaration was read.

Mr *Garroway.*] You have now ſome names of perſons taken with theſe Declarations; and when you charge any by Bill, you may add theſe; and I hope it will ſtrike ſuch a terror upon others, that you will have the effect.

Sir *Thomas Clarges.*] You have but two Chriſtian names. I am not of opinion to impeach men by other names than their Chriſtian names; it may be reflection upon families of the ſame name, who are innocent. Order my Lord Mayor to ſend their Names and Examinations to-morrow.

Mr *Hampden.*] I think we are under ſome diſpute, to vote before we know their Chriſtian names. I would not have imputations upon perſons of the ſame name. You may ſay, "Doctor *Grey* to be impeached, who ſpread ſuch a Declaration;" and then to-morrow, when you pleaſe, ſend up an Impeachment to the Lords; you may paſs ſuch a Vote, and deſcribe them.

Sir *William Williams.*] A perſon that draws his ſword againſt the King, by deſcription of the perſon, is committed. It may fall out that you cannot know his name; therefore you may commit him by deſcription.

Serjeant *Maynard.*] I am againſt Impeachment of theſe perſons, that they may be puniſhed. Theſe Papers are High Treaſon; an Impeachment may walk long, before it comes to iſſue. Proſecute them by way of Indictment, and then you may puniſh them ſeverely and legally. Let the Judges lay it as a Charge upon the Attorney and Sollicitor-General, that they effectually proſecute them at Common-Law.

Mr *Garroway.*] You ſee many people abroad in the Nation, who refuſe to own the Government. We cannot give too much aſſiſtance to ſupport it. I deſire this Proſecution may be by Impeachment, and not by Indictment, that the World may ſee you ſtand by your Government.

Sir *Thomas Clarges.*] I was of opinion, that Impeachment was the beſt way for your Juſtice. I am altered ſince, from what I have heard, *viz.* "That you ſhould bear your Teſtimony of it." If you ſend to the Lords, to order the Attorney-General to proſecute, you may have

ſpeedy

ſpeedy juſtice, the Term now in being, three or four days in Term-time; Indictments may be found by the Grand Jury, and you may have ſpeedy Tryal, and ſpeedy Execution. I am afraid that theſe things have gone all over the Nation, and I would have Proſecution at the Aſſizes all over the Nation. Whereas the danger is great, ſo the reſentments ſhould be quick, and the like Proſecution all *England* over.

Sir *Robert Howard.*] If any thing be done againſt the Government, I would bring in the old manner of Impeachments; nothing will ſettle your Government better.

Sir *Henry Capel.*] This is a point of ſafety, and that has led the Houſe into this of Impeachment. As for ſending to the Lords, to order the Attorney-General to proſecute theſe, have we not a King to command his Officers, and Judges to try them? For many Reaſons offered, and many more that may be, I am for impeaching.

Sir *William Williams.*] If you proceed againſt him in the *King's-Bench*, he cannot be tried till next Term, *(Michaelmas)*. If he be tried in *London* by a ſpecial Commiſſion of *Oyer* and *Terminer*,—I like well Tryal in the *King's-Bench*, ſolemn in the face of the Kingdom; but if he be impeached in the name of all the Commons of *England*, it gives a dignity and honour to the King. If impeached by the Commons, it is not tied to this or that County; 'tis left indefinite, and not confined to the formalities of other Courts.

Sir *Thomas Littleton.*] The greateſt conſideration of all with me is, Whether the Houſe of Commons dare take notice of this; and men may take farther encouragement, and ſay, "it ſeems the Houſe of Commons dare not meddle, but put it to the inferior Courts;" therefore I am for Impeachment.

Serjeant *Maynard.*] I have as much zeal for the puniſhment of theſe men as any man here, and am grieved at the ſlowneſs of proceedings; but when you may do it by Law—This Act was done in *London*, in a Tavern in *London*—It may be, he cannot be tried in eight or ten days; but here is a clear offence: When you have brought it up to the Lords, the men are in their Judgment,

ment, not yours. One man tried and condemned at Common Law, will work more upon the People than ten Impeachments. If once you make that an Example, not to try without the Lords, I do not know the conſequence. I come here with grief of heart, to be here five months, and do nothing at all of this nature. Therefore I would not go before the Lords, when the Law is clear, and may be tried by Juries.

Mr *Hawles.*] The Queſtion is, Whether you will go by Impeachment, or Indictment? I am for Impeachment. I do not think this to be a plain Caſe of Treaſon, by 25 *Edward* III. I do ſay, no Court can judge this offence to be Treaſon; and that Statute did plainly not bind the ſuperior Court of Parliament, but the inferior only. Look but over the Statute of 25 *Edward* III, and you will not find any words to reach this Declaration, *&c.* to be Treaſon. The proper way is, to judge this High-Treaſon; and therefore I am for proceeding by Impeachment.

Reſolved, That the perſons who diſperſed the Declaration, *viz.* Dr *Elliot*, Capt. *Vaughan*, Sir *Adam Blair*, Capt. *Mole*, Dr *Gray*, &c. be impeached of High-Treaſon.

Mr *Howe.*] Several are now in town who ſtand charged upon former Impeachments. I think it fit that the Houſe give their Opinion, "That all ſuch perſons withdraw themſelves from Court." Out of my duty to my Country, I ſhall name them, if you pleaſe, that they may be ſecured.

Col. *Mildmay.*] For what they have done formerly, leſt they ſhould attempt the ſame again, and it be too late to remedy it, I deſire you would remove them from the King and his Councils.

Mr *Hawles.*] It was the Opinion of Lord Chief Juſtice *Hale*, "That if the Government muſt be ſubverted, it muſt come from *Weſtminſter-Hall.*"—*Fitzharris*'s Caſe, and Lord *Ruſſel*'s—Upon the buſineſs of the Charters, ſome went out, and others came in; but only when it came to the Diſpenſing Power, they could not ſwallow that. Whilſt there are Lawyers, they will be tools to do as they are bidden. The Tryal of *Fitzharris* was one of the wickedeſt things, and that about Lord *Ruſſel*'s Jury you know,

know, and the giving new Charters to have voted a Parliament after their mind. You have been well moved to know who were the Privy-Council at that time.

Sir *William Williams.*] 'Tis not the cards, nor the dice, they are but the tools; it is the hand that cheats you. I have gone poſt often, and have found a good horſe under me, but he would go no farther than his ſtage. You ought to go to the Fountain, the great Council, in the Declaration, and they will betray one another: We muſt go to the viſible Council; the Committee of Trade, the Cabinet-Council. The firſt thing done was the Tryal of *Fitzharris*, but they would not deſtroy the City-Charter then; the Poſt-horſe failed them—He did afterwards deſtroy the Charter, and break that, but was not ſo profligate as to break all the Laws—Charge them, and they will accuſe one another.

Mr *Garroway.*] I think, we are not going the right way. When the Judges ſhall be here, aſk them any Queſtion you think fit. I have ſeen Lord Chief Juſtice *Keeling* ſent for hither, about calling *Magna Charta*, *Magna Farta* *—They will tell you who did it.

The Speaker.] Such as have been Judges you may ſend for by Warrant; but to ſuch as are Attendants on the Lords you ſend only an Intimation, leſt Exceptions ſhould be taken by the Lords.

Mr *Hampden*, jun.] Theſe Judges laid it down for doctrine, "That there was no Treaſon but againſt the perſon of the King; the King therefore might pardon him." But there is a Treaſon againſt the Realm, which the King cannot pardon; the King cannot be without a Realm. You have it in Parliament declared, "That an Impeachment continues from Parliament to Parliament:" Will you ſuffer the Popiſh Lords to go about under your Impeachment, and not be proſecuted? I move, that you will appoint a Committee, to enquire by whoſe Authority thoſe Lords were delivered out of the *Tower*, illegally; and ſend to the Lords to commit them.

Sir *Chriſtopher Muſgrave.*] The Queſtion is, for ſending for the Judges. *Garroway* has put you in the way.

* *See Vol.* I. *p.* 62 3.

For

For Method's ſake, divide the Queſtion; one by way of Order to appear, and the other by way of Deſire to appear.

Mr *Garroway.*] One formerly informed againſt one of your Members (Sir *Richard Temple*) for being an undertaker to carry on a buſineſs with Lord *Briſtol.* The Houſe ſent to Lord *Briſtol*, by Mr *Vaughan*, to know whether his Lordſhip ſaid any ſuch words to the King. Lord *Briſtol* prayed, "that he might come into the Houſe to give an account of it, becauſe he might ſpeak his own words." He came, and gave others little ſatisfaction abroad, and us as little here; and I do not doubt but the Judges will give you the ſame ſatisfaction.

Mr *Leveſon Gower* names, Mr Juſtice *Dolben*, Mr Juſtice *Gregory*, Mr Baron *Neville*, and Mr Juſtice *Powell*, to be ſent for to come to the Houſe.

Sir *William Williams.*] Sir *Francis Pemberton*, Sir *Creſwell Levens*, Sir *Thomas Jones*, Mr Serjeant *Montagu*, Sir *Francis Wythens*, Sir *Richard Holloway*, to know who gave the Inſtructions to the Judges, *&c.*

Mr *Howe.*] I know not how to take notice of the Cabinet-Council, nor what it means; I know not whether it be a lawful Council; I know not whether it be a crime to be a Cabinet-Counſellor: But I would deſire the King to deliver us from thoſe that were Counſellors then, that we may be troubled with them no more.

[The above Judges, and others, were ordered, or deſired, to attend the Houſe to-morrow.]

Friday, June 14.

The Judges, *&c.* above-mentioned attended according to Order.

[Lord Chief Baron *Atkins*, Mr Juſtice *Dolben*, Mr Baron *Neville*, Mr Juſtice *Powell*, and Mr Juſtice *Gregory*, were ſeverally called in.]

The Speaker.] My Lord Chief Baron, the occaſion of the Intimation the Houſe gave you of their deſire, *&c.* is to be informed of ſome things. They would know, why, in *Charles* II's time, you were turned out of your Judge's place?

Lord Chief Baron *Atkins* *.] I ſuppoſe there were ſeveral reaſons. There was a great Cauſe depending betwixt Sir *Samuel Barnardiſton* and Mr *Soames*. The Cauſe was of great expectation and conſequence in the *King's-Bench*. Judgment was given for the Plaintiff, *Barnardiſton*. After that, *Soames* brought a Writ of Error. Eight Judges argued, (there was a great appearance) and *Ellis* and myſelf argued to affirm the Judgment; others, to reverſe it; which, I ſuppoſe, was not acceptable to ſome great perſons then. There were other things objected againſt us. In the Circuit, I declared againſt Penſions to Parliament-men, and there was great complaint againſt me. I went the *Oxford* Circuit with *Scroggs*, where *Scroggs* called *Bedlow* "a perjured perſon." I told him, "he had paſſed Judgment upon his Evidence."—— There was a Petition from my Lord Mayor, *&c.* for the ſitting of Parliament. I was willing to avoid all occaſion of diſcourſing with *Scroggs*. He ſaid, "That Petition was High-Treaſon." At laſt, I affirmed, "That the People might petition the King; ſo that it was done without tumult, it was lawful;" and of this he ſent word to the Court. But what filled up the meaſure was about the King's Power, "Whether he might not prevent printing and publiſhing, *&c.* by Proclamation." I ſaid, "It was moſt proper for a Parliament—If the King would do the work of a Parliament, we were like to be without a Parliament." I ſaid, "In caſe the People do repreſent things by falſe news, they may be met with, and puniſhed." I adviſed againſt the opinion. There was another lay heavy upon me (Lord Chief Juſtice *North*) and it was about ſelling Offices. I found they were diſcontented at me, and I impute it to the two Chief Juſtices. *He withdrew.*

Mr *Garroway*.] I would not ravel now into the Buſineſs of Penſions; that may be hereafter; but I would principally drive at the diſcovery of thoſe who adviſed the Diſpenſing Power. This, he has told you, was as to other caſes.

Mr *Howe*.] All theſe Penſions were for the advantage and intereſt of *France*; if they had not been ſupported by *France*, they could never have brought us to this. It was the beginning of our woes; and now eſpecially, when we have a War with *France*, I would have thoſe who correſponded with *France* excepted.

Sir *John Lowther*.] Such a Queſtion is irregular; "the Diſpenſing with the Laws" is the proper Queſtion.

Mr *Hawles*.] We are not tied up to one Head, to enquire of a Witneſs. The Lord Chief Baron can give you no account of the Diſpenſing Power; he was turned out

* *See Vol.* I. *p.* 32, *Note.*

long

ong before that came in queſtion. 'Tis proper to aſk him any Queſtion before you.

He was called in again.

The Speaker.] The matter of the Petitions was objected againſt your Lordſhip. The Houſe would know who ſaid it to you?

Lord Chief Baron *Atkins.*] I did drop that word to give you occaſion for your Queſtion. Lord *Clifford* took occaſion to tell me what favour the King had conferred upon me; "that I had attended diligently in Parliament, and was taken from my Profeſſion, therefore the King had thought fit to ſend me 500 *l.*" I replied, "I thank you; I will not accept any thing for my attendance in Parliament." Sir *Stephen Fox* aſked me, "why I would not ſend for my Money? I have a good Sum lies by me for you." I did take occaſion, upon this, to adviſe my Countrymen, "that thoſe who took Penſions were not fit to be ſent up to Parliament again;" and I never went farther in it than I have told you.

Mr *Fox**.] I find a reflection upon Sir *Stephen Fox.* I would know what time this was?

Mr *Smith.*] I think there is no reflection upon Sir *Stephen Fox.* I remember there were Members ſent for Sir *Stephen Fox*'s Books, to know who had Penſions†. He was ſo ingenuous as to tell you upon his Memory who they were, and there is no need to ſend for him.

The Speaker.] Mr Juſtice *Dolben*, the Houſe has ſent for you to enquire why you was diſcharged ſo ſuddenly from your place in the *King's-Bench.*

Mr Juſtice *Dolben.*] 'Tis now ſeven years ſince, and I cannot certainly tell; but I think it was for giving my Judgment for the King in the *Quo Warranto* brought againſt the City of *London.* Several came to me, I know not from whom ſent, or whether they came out of curioſity to diſcourſe with me, as I thought, about the *Quo Warranto*, &c. I muſt confeſs, one came to me (he was my friend) I think he ſaid, Mr Secretary *Jenkinſon* was the occaſion of his coming; he aſked my opinion about it. He found me at my Houſe at *Hampſted*; my Papers were before me conſidering the Caſe. He told me, "it was far from him to perſuade me, but, whatever comes of it, to follow my Conſcience. If you are for the

* Son of Sir *Stephen Fox*, and Paymaſter General of the Forces in the Reigns of King *Charles*, King *James*, and Queen *Anne.* In the Reign of King *William* he was Vice-Treaſurer, and Receiver General, and Paymaſter of the Revenue in *Ireland*, and was likewiſe Treaſurer to *Catherine* Queen *Dowager.* He died in 1713, and was elder Brother to the preſent Earl of *Ilcheſter.*

† *See* Vol. VII. p. 323.

King, you muſt ſtay in. If not, you muſt be turned out." I gave my Opinion, and was diſcharged the next day. The Docket was ſealed on *Friday*, and I was diſcharged the *Tueſday* after.

Sir *William Williams.*] 'Tis a common thing, not to come to a man to corrupt him plainly, but to bid him uſe a Conſcience. I am not afraid of the dead, but of the living; I am afraid of thoſe alive. When that man is named, I ſhall know how near the King he was, and what Office and Place he bore in the Miniſtry.

Mr *Garroway.*] I would not have you go farther than what he declared to you, but you ſee plainly a practice upon them that would not do their Buſineſs.

Sir *Robert Howard.*] I am againſt aſking him any more Queſtions. I ſee we ſhall find none but dead men. I wiſh they would tell us no more ſtories of the dead: I ſee they muſt bear all.

The Speaker.] Mr Baron *Neville*, the Houſe would know how you were placed in the Exchequer, and how you came to be diſcharged?

Mr Baron *Neville.*] I ſhall acquaint you with what I think was the reaſon. I was ſent for by King *James* to *Whitehall* the laſt *Michaelmas* Term. I attended at Mr *Chiffins*'s Chambers. After I ſtayed a while, King *James* came to me for my Opinion in ſome Points, in a Paper he had in his hand; it was about the Diſpenſing Power of the Penal Laws. I ſaid, "I doubted his Majeſty could not diſpenſe with thoſe Laws; but I could not give my Opinion ſuddenly; upon reading the Paper I would conſider farther." A little while after, Chancellor *Jeffreys* was ſent by the King to know my Opinion. I ſaid, "I gave the King my ſudden thoughts, but I would farther conſider of it." A week after, when I had conſidered more of it, I waited again, *&c.* and gave my poſitive Opinion, "that the King could not diſpenſe, *&c.*" I ſat quiet after this, for ſome time; and before the Circuit I was ſent for to the ſame Place; where was Mr Juſtice *Streete.* He was the ſenior Judge; he gave his Opinion, and I mine. The Chancellor made a long Diſcourſe, and diſapproved our Reaſons, as the King had done. So I was diſmiſſed, and my Commiſſion not ſealed till two days before the Circuit. I took my leave of the King, and had my Direction after the uſual manner—I went with Mr Juſtice *Holloway*, where were the King, the Chancellor, Lords *Sunderland*, *Rocheſter*, and *Godolphin.* The King aſked Opinions: *Holloway* gave the ſame Opinion with me. The Chancellor diſapproved the Opinion—I was diſmiſſed again. *Monday* before the Term, I was ſent for to the Chancellor's Houſe, who told me, "If I perſiſted in my Opinion,

nion, I muſt expect to be diſcharged." I ſaid, "I muſt perſiſt, for I had no reaſon to alter it, and would ſubmit to the King's Pleaſure." About ſeven or eight days after, I had my *Quietus*; and was told, that Mr *Harris* brought it.

Mr *Smith*.] You have had a fair Account from this Gentleman. I would have one Queſtion aſked him, "Whether any body elſe was with the King the firſt time?"

Mr *Howe*.] I deſire you would aſk him, "Who more were there the firſt time, and whether they concerned themſelves in this matter?"

Mr *Foley*.] I deſire that he and all the others may be aſked, "Whether the King did not aſk him, whether he might grant out Commiſſions of Martial Law, or raiſe Money without Parliament?"

The Speaker.] Was any other Queſtion aſked you than that of the Diſpenſing Power?

Mr Baron *Neville*.] There were more Queſtions aſked, but all tending to the Teſt-Act. There was no ſigning at all of a Paper proffered me to ſign, and I know not who drew it. I read it, and returned it. The firſt time I came, there was no body but the King himſelf. The ſecond time there was the Chancellor, *&c.* (*as before*) If the Lords then preſent ſaid any thing, they diſcourſed with one another. The Chancellor managed the whole thing.

The Speaker then addreſſed himſelf to Mr Juſtice *Powell*, as before.

Mr Juſtice *Powell*.] I was turned out ſuddenly. I know not perfectly, the reaſon, but I ſuppoſe it was about my Opinion of the Diſpenſing Power. Another, I ſuppoſe, was upon giving my Judgment about ſeveral *Quo Warranto's*, where the Borough choſe Members of Parliament by Preſcription; but I know not certainly. I remember not any Perſon that diſcourſed with me. I was ſent for to the King, (*as before*) I aſked the Meſſenger, who elſe was ſent for? He told me "Several others of the *King's-Bench*."—The King ſaid, "he hoped all the Judges would be of the ſame Opinion. (A *Quo Warranto* was brought eſpecially againſt *Marlborough*) I happened to be of a contrary Opinion, and that I take to be the Occaſion of ſending for me. There was Lord Chief Juſtice *Wright*, *Alibone*, *Holloway*, and myſelf, there. My Opinion at the *King's Bench* was not pleaſant—And, I gueſs, theſe were the reaſons why I was removed. I cannot recollect any time I was ſent to before. There were preſent Chancellor *Jeffreys*, the Attorney-General *Powis*, the Sollicitor-General *Williams*, and Sir *Samuel Aſtrey*. I think no Lord was preſent but *Jeffreys*. The late King ſpoke to induce the Opinion. The Chancellor enlarged upon

it, and after he had commented upon it, ſome ordinary matters were diſcourſed. I remember nothing relating to the Law—A quarter of a year before, I was ſent for by the Chancellor to take my Opinion, whether a Borough, for a Miſdemeanor, did not forfeit their Right of Election of Parliament-men? And whether ſuch as had no reſidence in the Borough, and were foreign Burgeſſes, had Right of Election? The Chancellor would know the Judges Opinion. I delivered my Opinion, "That there was no ſuch Power in *Weſtminſter-Hall* to queſtion any ſuch thing. I thought that Power was only in the Honourable Houſe of Commons." At which the King ſeemed ſatisfied. When I came home, I ſearched my Books, and ſome Authorities. Juſtice *Lutwich* was abroad then, but did ſeem to be of the ſame Opinion, "That it was not proper for *Weſtminſter-Hall*."—I conceived that the Miſdemeanors of Corporations, *&c.* were pardoned by the Act of Indemnity. I cannot call to mind that I had diſcourſe with any man, but the late Chief Juſtice, who aſked me, what my Opinion was? I anſwered, "When the matter came before me, I ſhould give it on the Bench." The firſt news I heard of my diſcharge was from my Lord Chancellor, who (at his Houſe) very kindly told me, "He was ſorry for it, but would not ſend my Patent of Revocation till the laſt day of the Term." And I ſat out the whole Term.

Mr Juſtice *Gregory.*] I did continue Baron of the Exchequer till *Michaelmas* Term, 1685. The King came with a Paper in his Hand (*as before*) *&c.* I gave my Opinion againſt the Diſpenſing Power.

Sir *Thomas Jones.*] I was removed for my Opinion of the Diſpenſing Power, *&c.*

Sir *Francis Pemberton.*] I was removed out of my place, without viſible Reaſon, the firſt time; neither do I know the reaſon of my being removed from the *King's-Bench* to the *Common Pleas.* I was never ſent for to *Whitehall*, nor to my Lord Chancellor's. I was willing to remove. The night before, my Lord ſaid nothing to me, but the next morning I had a *ſuperſedeas.*

Mr Serjeant *Montagu.*] I was removed for giving my Opinion againſt the Diſpenſing Power, *&c.* (*as before.*)

Mr Serjeant *Levens.*] I thought my diſcharge was becauſe I would not give Judgment upon the Soldier who deſerted his Colours, and for being againſt the Diſpenſing Power.

Mr Serjeant *Wythens.*] I ſuppoſe the reaſon of my diſcharge was for refuſing to give ſentence on the Soldier (*as before.*)

Mr Serjeant *Holloway.*] I ſuppoſe my removal to be becauſe I did declare "That the Biſhops Petition was not a ſeditious Libel;" and "that the Diſpenſation was illegal."

They withdrew.

Sir

Sir *Thomas Littleton.*] Having heard all this from the Judges, I deſire we may not riſe without ſome Opinion of the whole of this ſtrange dealing.

Mr *Garroway.*] That will not do your work. *Jones* told you, *&c.* " he muſt give his Opinion; the King muſt have all the Judges of a mind." When the whole thing is before you, then you will ſee who came in their places that were turned out, and make uſe of their Evidence to puniſh the reſt who were of another Opinion.

Col. *Birch.*] This will be odd to Poſterity, if it appear not upon your Books for what you ſent for theſe Perſons. I would know who were of the Council at diſſolving the *Oxford* Parliament, (and who of the Cabinet, if poſſible) when Papers were to have been put into Proteſtant Pockets, to have them knocked on the Head. I would have them particularly examined, what they know of the Declaration that was pinned at our Backs after the *Oxford* Parliament.

Sir *John Lowther.*] What a multitude of Perſons will this of delivering up Charters involve the Nation in! We have now a War with *France*, and King *James* is in *Ireland.* I wiſh you would forbear this, or adjourn it, till the Houſe be in better Temper. If the Clerks of the Council give you imperfect Anſwers, you will alarm thoſe who are under the ſhelter of the Government, when they expect an Indemnity. I therefore move you to adjourn the Debate.

Saturday, June 15.

On the Subſidy Bill.

On the Proviſo of double Penalty for refuſing Payment of the Subſidy.

Mr *Hampden*, ſaid.] This of refuſing Payment muſt be diſowning the Government; which is Treaſon. It looks like a pleaſant ſaying on another occaſion, " Either fine him half a crown, or hang him." If a man be puniſhed by fine for Non-Payment, and by conſequence, not owning the Government, he cannot be proſecuted (I believe) by Indictment for diſowning the Government upon this offence. Therefore I think it much better to throw out the Clauſe.

On

On the Heads for the Bill of Indemnity.

Mr *Ettrick.*] The Houſe ſeems inclinable for their Convenience to go into the Country. It has been propoſed, for method, to go upon Heads, and to name Perſons obvious and notorious, on ſeveral Heads. You have been told "that it is neceſſary to go to the Fountain and Spring head." In *Charles* II's time we were afraid of a Popiſh Succeſſor; that was the Spring; and lately we have had a Popiſh King. You have now a Proteſtant King, and I hope will deſtroy Popery and *Rome.* The proſpect of the Duke of *York* to be King put men upon a compliance with arbitrary Government, and to cloſe with Popery. That now ceaſes, and ſo I hope we need not go about to remove Counſellors, Penſioners, and Officers—I thank God, there is no danger of the *French* King's Influence; he has his hands full. *Ireland* and *Scotland* are not yet reduced—Under theſe Conſiderations it is neceſſary that we unite all here, I hope, againſt the public Enemy, the Papiſt; but I hear no talk of them, they wipe their Mouths. But then, as *Solomon* ſays, *it is wiſdom to paſs by an Offence.* Perſons that have made an atonement by their preſent ſervices, I hope you will bury all in Oblivion. The Chancellor was the Tool of Popery. I hear no mention made of Lord *Sunderland*, though it be Treaſon to reconcile to the *Romiſh* Church*; and hearing nothing of Popery, I remind you of it only to look upon the great Inſtrument of introducing Popery and arbitrary Government.

Sir *Robert Cotton.*] What does ſeem viſible to us is the Judgment in the *King's-Bench* in Sir *Edward Hales*'s Caſe. I would put the Queſtion upon theſe Judges. I think no way ſo proper.

Sir *John Lowther.*] You are hardly ripe for that Queſtion yet; that Judgment has two parts; one was Eccleſiaſtical, in the Caſe of the Biſhops; the other Civil, in Sir *Edward Hales*'s Caſe. If you pleaſe, let all the Judges be named, and you will be ripe for that matter.

* The Earl of *Sunderland* made the ſtep to Popery all of a ſudden, without any previous Inſtruction or Conference. So that the change he made looked too like a man, who, having no Religion, took up one, rather to ſerve a turn, than that he was truly changed from one Religion to another. *Burnet.*

Mr

Mr *Machell.*] That is beginning at the wrong end: Shall we let the Chancellor go off? Pray begin with him.

Mr *Hawles.*] If a man were beyond ſea, there is a Proclamation to render himſelf by a Day. 'Tis an irregular thing to ſay, that man that is dead ſhould be excepted, when you may bring an Attainder againſt him.

Serjeant *Wogan.*] You may exempt him, as you did Perſons in the former Act of Indemnity. He has a Son and a Lady left, and there are Settlements upon them. For the Man I cannot ſay any thing, but you may except him as formerly.

Mr *Sacheverell.*] I ſee, ſome Gentlemen in the Houſe think nothing can be excepted, but what is at this Time; but they may be in your Bill, and what Exceptions elſe you pleaſe. I ſtand up, not out of reſpect to *Jeffreys.* Never let a Miniſter of State leave to Poſterity what he has raiſed by his Iniquity—It ſhould be always to the uſe and benefit of the Public, and his Family be never the better for it; and when you come to the Indemnity, I ſhall move you to appropriate their Eſtates to the Public. He that will venture upon the Life of his Sovereign (which is the caſe)—If not, you will never diſcourage a man from being a rogue to his Country. Let this, therefore, alone to the Bill of Attainder, and let it be forfeited to the Public. I cannot let a man go away with an Eſtate he has got with ruin to *England.*

Sir *William Williams.*] That was a wiſe Law of *Henry* VIII, to forfeit Eſtates for Treaſon; before that Law, Eſtates were not forfeitable. By the Proviſion of that Statute, the Children were to loſe their Eſtate for the Iniquity of their Parents.

Mr *Hawles.*] Now we are in the right way. 'Tis reaſonable to declare that thoſe men that have got Honour by doing ill may be degraded. I would have them refund what they have got by the Charters of Corporations. I believe, if you will go this way, you will do right to the Public. Thoſe whom they have deſpoiled ought firſt to be reſtored. I would go firſt upon Perſons living, for I believe they have done us moſt Injury.

Mr *Howe.*] If you go about to degrade thoſe who have new Honour, I know not how you will come by them; ſome

ſome have great Eſtates and Titles, and nobody knows, why. And Biſhops, nobody knows how they came to be ſo, or how they deſerved it. Let us not, like *Falſtaff*, fight with dead men—Let us puniſh the living; the dead will ſtay for us.

Mr *Harbord.*] I have heard it ſaid, that Puniſhment is much better than Laws, of which we have enough. Here are Papiſts now in Town; they will not ſtir. 'Tis ſaid by ſome, 'tis becauſe of foreign Alliances; but we muſt think of home dangers, elſe they will affront you to your face. As for the Judges, it is ſaid eleven conſented—For preſent Example, confine them to a little Number. The head Juſtice was hanged at *Tyburn* in *Richard* II's time. I wonder not they are ſo ill Men, for no others would ſerve them. I move that two of them may be hanged at *Weſtminſter-Hall* Gate.

Mr *Brewer.*] I believe, it is not for the Honour of the Houſe to proceed upon the Judges. Have you any Witneſſes out of the *King's-Bench*, or any thing under their Hands, any Judgment in *Weſtminſter-Hall?* Common Fame is a good Interpreter, but no good Judge—I would proceed upon the Judges who gave Judgment in the Diſpenſing Power.

Serjeant *Wogan.*] I was with that Judge (*Holloway*) who is ſaid to have come over to the Opinion of the reſt, on the Diſpenſing Power, He declared againſt it, and was going to print his Vindication, and denied that he gave any ſuch Opinion. I have known him theſe twenty-five years. I diſſuaded him from printing, *&c.* for it would be looked upon as a Libel, and he and his Family be undone. But he declared he would take the firſt Opportunity to do it, and immediately he did at the Tryal of the Biſhops. I do not know that he was ever of that Opinion, but there were ten of the Judges of that Opinion.

Sir *Thomas Littleton.*] I would be tender in reflecting upon any man, but that Judge ſat two years and a half under that Imputation of Opinion. *Powell* delivered his Opinion for him, and to this day he never acknowleged it. He will take the Sacrament upon it, that he never gave his Opinion

Opinion for it; he hath ſolemnly declared that he had his *Quietus* upon it, and offers it ſtill. *Streete*, who gave his Opinion, did declare that *Holloway* had wrong done him.

Mr *Hawles*.] When a Judge of a Court delivers an Opinion of a Judge abſent, the next time he ſits, if he does not diſown it, he confirms the Report. It is an uſual thing to deliver an abſent Judge's Opinion, but very improper. I have known when a Judge has been miſrepreſented in his Judgment, he has denied it in Court.

Sir *William Williams*.] Here was the Caſe. The Opinion was delivered in the *King's-Bench*. *Powell* was not a Judge of that Court, but of the *Common-Pleas*. He had no Opportunity then to contradict this, but did it at his firſt Opportunity.

Sir *John Lowther*.] I am very indifferent whether this be true or falſe, but what I look into is, who were moſt notorious, thoſe who gave the Opinion in the *King's-Bench*, and then ſat in the Eccleſiaſtical Court, or thoſe Biſhops who ſat—and all concerned in *Magdalen College*. You muſt exempt the moſt notorious out of the Indemnity, who perſevered to the laſt.

Mr *Ettrick*.] *Powell* was not then a Juſtice of the *King's-Bench*. The Queſtion is, whether he was there, and whether he gave any Opinion. They were at Lord Chief Juſtice *Herbert*'s Chamber, and *Powell* ſaid, "It was a new thing, and he could not ſuddenly give his Judgment"—They would give Judgment on *Monday*, [and not] upon ſurprize. *Holloway* reſolved to vindicate himſelf in print, but as ſoon as he was removed into the *King's-Bench*, and had an opportunity, he gave his Judgment; and *Wright* ſaid, "You always, Brother, have been of that Opinion." *Powell* is a man of too much learning and honeſty to be of that Opinion.

Sir *Thomas Littleton*.] I would know why, to this day, he would never ſay to his Brother *Holloway*, he had done him wrong.

Sir *Robert Howard*.] I think we are not at all travelling towards the Indemnity. We are told hearſays of *Powell* and *Holloway*. Pray put the Queſtion upon thoſe who gave the Opinion in Sir *Edward Hales*'s Caſe. I cannot but be

be a little ſurprized when the uſe was for the King to diſpenſe theſe Laws, and by conſequence all Laws; and that in the Caſe of the Biſhops they ſhould bind—I hope theſe extrajudiciary Opinions may be condemned. The fault was, ſaying what Opinion they were of. If *Holloway* had been a Judge for Life, poſſibly he would not have been of that Opinion. I hope this may be prevented for the future.

Mr *Howe.*] Which is the greater Crime; they that went a fiſhing for a Knave to do it, or the poor Knave that did it? Was there no property in *England* till *Magdalen College?* Nor any Liberty till the Biſhops were ſent to the *Tower?* It will be impoſſible to find them out—Rather adjourn the Debate, or give a general Act of Oblivion to all, for the greateſt part of *England* were criminal.

Mr *Hawles.*] I have heard that Judges Patents were formerly, *Quamdiu ſe bene geſſerint*, and if you do not puniſh the *Bene placito* Men, you will confirm thoſe of *Quamdiu*, &c. to do as thoſe before them. The laſt Grievance was that of *Magdalen College*, and thoſe turned out got by it. If I were to begin, I would at the firſt Head; that is, the *Oxford* Parliament. We know that Sir *Edward Hales*'s Caſe was a moot, a feigned Caſe. *Wright* is dead, and *Herbert* fled; ſome were frighted, and ſome cared not what they did a ruſh; but the Attorney-General and Sollicitor-General are Men of Eſtates; let us know who was the Attorney and Sollicitor-General then; let us know at that time who paſſed that Patent, and then you have a Criminal before you.

Sir *Joſeph Tredenham.*] When you will exerciſe your Juſtice, I would not do it till the greateſt Criminals are named. You have been told of taking away Charters of Corporations; conſider what a great Number will be involved on that Head, and how ſafe the Government will be when ſo many are unſafe under it. The Regulators, which happened after the ſurrenders, that comes under that Head. When offences come to be general, there is no way but to cover them all by a general Act of Parliament; for theſe Reaſons, when you look into the Revolution, all ſorts of Perſons have contributed to it; and People will rather

rather upon ſeverity cover paſt faults with greater, than be reformed.

Sir *John Lowther*.] In converſation, through frailty we both give and take Offence. No man here but may have his revenges, and ſome upon me: I am willing to forgive, I deſire to be forgiven by all the World. We have got the Government ſettled: I would puniſh for the future, and pardon all that is paſt.

Mr *Smith*.] I ſhould heartily concur to the Motion, if it would give content to the People. If we name not ſome Perſons, we muſt allow their Offences. I ſpeak for the Juſtice of the Nation. Thoſe who have got Eſtates by our Misfortunes, will get into the Government, and you go about to qualify them for it. I muſt ſay, if you reſpect not the King's Declaration, nor the Juſtice of the Nation, I cannot agree.

Mr *Hawles*.] I never heard of a general Act of Indemnity. Will you except Robberies, Murders, and let theſe Men run away? If you go about to pleaſe thoſe who have offended, you will anger twenty more that are injured; though I am not for Blood. Was not the Attainder of *Corniſh* illegal, by the expreſs Evidence of *Rumſey*, who was not there, when he ſwore he was? And the whole Tryal of Lord *Ruſſel* was illegal, and as bad; and Col. *Sidney*'s as bad as that. I have had no Injury done to me, nor any of my Relations have ſuffered; but if you do not Juſtice to them without doors, we ſhall not ſit long here.

Mr *Papillon*.] I think you have read but one Head, and then, certainly, it is very improper to go upon a general Indemnity. I am not for revenge, but to vindicate the Nation. We are to vindicate the Proteſtant Religion. The Papiſts would turn all upon you, and you have an Opportunity to vindicate *England*. The Parliament has been abuſed, and Papers pinned at our Backs, upon a Diſſolution; and now we are told, "you do nothing to vindicate yourſelves by puniſhing ſome Offenders." When you come to particular Perſons, let every man do what he pleaſes, but I ſee men juſtify what they have done. The Popiſh Plot was laid aſide, and laid on the Proteſtants. Pray vindicate the Juſtice of the Nation.

Sir

Sir *Robert Cotton.*] If Crimes have been epidemical, and you cannot diſtinguiſh men, it may be of ill conſequence. Thoſe who acted in *Weſtminſter-Hall*, were ſet on by greater Perſons, and thoſe are fitter for our Juſtice. Mercy becomes this Houſe, and I never knew but Perſons muſt be eminently diſtinguiſhed, and you will find ſome have their Crimes alleviated, and ſo all are equally criminal; but if you cannot diſtinguiſh, and it is ſo general and epidemical, let us be impartial, and pardon all.

Mr *Boſcawen.*] If you do not condemn others, you condemn yourſelves, and take all upon yourſelves. I have met with an Act of the *Iriſh* Parliament, on the other ſide the Water, that has attainted many. You ought to be careful, now the preſent Government is called in queſtion. If you pardon before and after, what will the World ſay? The Papiſts will be confirmed in all they have done. If you make a general Sweep-ſtakes, you make all the World believe you are wrong.

Sir *Robert Howard.*] I have ſeen great Revolutions (at leaſt ſeemingly) in Opinion, in this Houſe. In your Vote ſome Perſons were to be excepted by Name. I ſee ſome are inclined to a general Indemnity, and this is one Revolution of Opinion that has been here. As the nature of the thing ſtands, when I had ſeen an Act of Indemnity, I did ſuppoſe that the Eccleſiaſtical Commiſſioners, and thoſe concerned in Charters, would have been named. If you would not have thought them Crimes, you would ſure have put a Clauſe of Indemnity for yourſelves, and you were puniſhable, if you had not thought that you had not done very well. When you have enumerated all Offences, to excuſe yourſelves, you muſt have excuſed yourſelves.—And let all the World ſee they are not ſo great as you have believed them—I am ſure our Judgments are ſhaken, and pray God ſend nothing elſe be ſhaken amongſt the People! They may ſay, the good Houſe of Commons have ſeen ſomething too great, ſomething too deep for them. Had this been ſaid at firſt, it might have gone ſome way with me; but now you have gone thus far, and on the ſudden changed your Minds. You have excepted a Lord that changed his Religion (*Sunderland,*) and went an Embaſſy to *Rome* (*Caſtlemain*) and all that

that *Jeffreys* has done. The time of the day waſtes, and, it ſeems, our thoughts waſte, therefore I would adjourn the Debate.

Sir *Chriſtopher Muſgrave.*] I think, by the Vote you have made, it does not hinder a general Indemnity. I think it for your ſervice to paſs that Act, as great a ſatisfaction as any thing that has been done ſince the ſettling the Crown. I would rather err in Mercy than on the other Hand.

Mr *Sacheverell.*] For my part, I wonder at this Debate, and more at *Muſgrave* to put it ſo largely. I am as much inclinable to Mercy as any body; but as for the Judges that have ſo violated your Laws, what will that come to in time to come? What ſit you here for? I cannot ſit patiently at this. I am for equal Juſtice to all; but he that gives his Opinion that the Laws may be ſuſpended, I give my Opinion againſt him. Are we to paſs by all theſe, to be eſtabliſhed in Corporations, and capacitating theſe Judges to do the ſame thing again, the ſame Crimes? The King has given his ſanction—He is inclined to Mercy; but for Fines, I would never forgive them; I would not except one Judge, but as they have offended ſingly, as they merit, one by one. When the Law has been perverted, and Religion violated, I would never forgive them.

Sir *Henry Goodrick.*] I am unfortunate that it is my right to ſpeak, and I cannot obtain your eye. I ſtand up only for the ſervice of the Houſe. When I conſidered the Motion, the Charity, the Safety, when I conſidered the Authority of ſo conſiderable a Perſon as *Lowther*, ſo far from the intention of the Inferences made, I ought to ſuſpect no Perſon, much leſs that honourable Perſon. It was far from his intention to invade any thing by interfering—For theſe Crimes I wiſh Examples were made, and am ſo far from palliating them, that I would ſtamp a mark of your Indignation upon thoſe who adviſed King *James.* I confeſs, I am for a general Pardon; it has a charm in it to me. All *England* hopes for it, or elſe farewell all ſafety of Liberty or Religion! I do intend nothing to be pardoned of Crimes ſince you ſat. I here ſpoke of an Ambaſſador ſent to *Rome* by King *James*; could *Lowther*, or I,

be thought to juſtify that, or to pardon the Popiſh Party, who have been the firſt ſpring and motion of all this? The *Jeſuits* ſet on the Papiſts, and I will go farther in this than your Heads. I am ſtill for a general Pardon, but ſtill for Proteſtants only. I go not about to pardon, nor juſtify, the Chancellor, who was worſe than a Papiſt, that profeſſed himſelf a Proteſtant. I beg, Perſons may be excepted, but very few; the King has recommended it to you; follow his ſteps, in his Wiſdom and Charity. There is not a ſpirit of Revenge in Proteſtants, like Papiſts. I move you for an Indemnity, with all ordinary Limitations, and extraordinary Limitations—Papiſts excepted.

Mr *Hampden*, jun.] I ſuppoſe this place gives Liberty of Speech; it is the Honour of the Houſe, and the Liberty of the Nation. Will you lay aſide all theſe Heads at once, and ſit all this while, and ſay that nothing ſhall be done upon them? Is not this to ſeem light and unadviſed? I have expreſſed my tenderneſs; I have ſuffered, yet I can forget and forgive as much as may be, for the ſafety of the Nation. Blood no mortal man can forgive; nobody but God can forgive; you only leave a latitude to judge whether it is wilful. I will waſh my Hands of the innocent Blood that has been ſhed in the Nation. We take off Attainders from thoſe that ſuffered by theſe ill men: Were they guilty or innocent? If guilty, you have done ill to paſs it; if innocent, you cannot paſs it by. If the Nation will take that Blood upon them—If I forgive this, God will not forgive me. The whole Nation was of Opinion, that the not puniſhing the Baſeneſs of Ship-Money was the Occaſion of the great Miſchiefs that followed.

Mr *Hawles*.] The firſt Queſtion was, Whether you will name Perſons, and now I hear of a general Indemnity. When others break your Laws, they may hope for Indemnity for what they ſhall do for the future. I am not concerned with friendſhip, or anger, of any man, but I am not for *crudelis clementia*. *Charles* I had as learned Lawyers as ever ſat, and yet they did as irregular things. For the Ship-Money, had thoſe Judges been puniſhed, they durſt not now have done it. The Caſe of *Magdalen College*

College is but a trifle to what they have done in other things.

Sir *John Lowther.*] I hope nobody thinks I would excuſe ſhedding innocent Blood; but I believe there is a ſort of ſkill that, when a thing is not liked, it may be eaſily clogged with what was not intended. I would have the Exceptions read, and becauſe iniquity grows with times and ages, I would have ſome added.

Sir *Henry Capel.*] I do not think that *Lowther* has any intention to countenance Blood, or the Deſtruction of Government; but a general Act of Indemnity ſurprizes me; and yet ſome Perſons ſhould be under Exceptions. For two or three Reigns have we not had warning that the Government would be deſtroyed in *Weſtminſter-Hall?* We have had learned Judges and ignorant, and yet all have conſpired our ruin. Puniſhment is hard, and I am tender, yet if the Government requires it, it is incumbent upon us. The Government is executive in the King, when we are gone; he is a good King, yet we may have one with corrupt Judges. *Weſtminſter-Hall* has been the undoing of us all, and thoſe two things muſt reſt upon them. We are told, "the *Jeſuits* have infuſed miſchievous deſigns into the Papiſts;" but it has been our misfortune, that Proteſtants have joined hand in hand againſt us. Upon the whole, I would not adjourn the Debate; it is againſt the Honour of the Houſe to do nothing before you riſe. I would name them all four.

Sir *Richard Temple.*] The Queſtion this morning was about theſe four Judges, but the Exception was but to two of them. If I can be inſtrumental to ſerve the Houſe, I would willingly. You ſay in your Vote, "that ſome may be excepted from Pardon," but if you previouſly reſolve how many for Life, or other Exception, this is your only Method, to what degree for Lives, or other diſabilities of bearing office; propoſe ſome Reſolution to limit this, ſo as not to give too much latitude, nor too great alarm.

Sir *Thomas Lee.*] You began with two of the Judges, and then you came to all; at laſt, to an univerſal propoſition; but I ſuppoſe it was intended to all common crimes, as rapes, *&c.* uſually excepted. But as to the univerſal of-

fence of ſubverting the Government, the conſequence is, number enough is ſecurity enough—All theſe Judges will become practiſers, and their party will be their Clients, and ſo get more money than they did before. I have heard of Perſons, who for being of the King's Counſel have loſt Money by it. It would be a pretty ſight for the Biſhop of *Durham* [Lord *Crewe*] to come to his Dioceſe. When you have named a Perſon, the Law tells you his puniſhment. Here lies the difficulty with me, a neceſſity that ſo many Offenders ſhould be at eaſe, and not neceſſary that a great many ſhould be puniſhed, though neceſſary that ſome ſhould. If limited to four or five, ſay thoſe are the Perſons fit to be marked and puniſhed. If it be a general Indemnity, with few to be excepted, 'tis the happieſt Queſtion that ever was put.

Sir *John Lowther.*] It has been moved with great caution. If you pleaſe to nominate a ſmall Number to be excepted, it is a prudent, good, and honeſt Motion.

Sir *Robert Howard.*] Of all the Queſtions I have heard to-day, this laſt propoſed is the ſtrongeſt. It is impoſſible to lump this at a venture. So many for Blood; how if you take too many! If you judge a man for eſtate, you are bound up, and I find you would not involve it. The moſt indeterminable thing in the world! Judge the Man, and proportion his Crimes. I do not ſpeak to chill the charity of any body. The proper Queſtion is, Whether you will proceed upon the Judges of the *King's-Bench?* King *James* has abdicated the Crown, and if we lump them in, who have helped to lump him out, you ſay King *William* has done all the wrong, and they none.

Sir *Charles Raleigh.*] If this muſt paſs off ſo, for God's ſake let us ſend for King *James* again.

Exception was taken at Raleigh's *words.*

Sir *John Lowther.*] I cannot ſee how any ſuch imputation can be upon what he has ſaid.

Sir *Thomas Lee.*] You are right in order of explaining. I would not have words written down; it is a great injury to the Gentleman if written down. I hope the Gentleman will ſo explain himſelf, that it needs not.

Sir

Sir *Charles Raleigh.*] What I ſpoke was ironical only, if we proceed to puniſh the leſſer, and let the greater paſs.

Sir *Robert Rich.*] I never apprehended the Gentleman willing to bring in King *James*; but to paſs by all Blood-ſhed and Violation of our Laws, is the way to bring in King *James.*

Sir *Walter Yonge.*] If you are ſure there has been no innocent Blood ſhed, I would not concern myſelf. This may perhaps fall upon few, whether five or ſeven, I care not how few, but Blood has been ſpilt. I move for a general Queſtion for Life; for ſome have been concerned out of the *King's-Bench* as well as there.

Sir *John Thompſon.*] I would aſk one Queſtion, Is any man guilty of Blood? And will you exempt them? Will you think it honourable to ſtand upon your Book, that you except any man for Blood; but let that take the laſt place?

Sir *Robert Rich.*] I bear malice to no man; none of theſe offended me. The crime of Diſpenſing with the Laws is great. Nothing waſhes away Blood but Blood; but when you have reſtored Blood, I would have them excepted, as for Life; the reſt not excepted for Life.

Mr *Ettrick.*] I ſee not that, by any Law, you can take away a Man's Life; for Blood, and for Murder, you will except that, but elſe I cannot give my conſent to take away Life.

Sir *Thomas Lee.*] I would have the Long Robe declare, whether theſe Offences extend to any Man's Life. Therefore I lay the conſideration when the Perſon you would except—If at the King's ſuit, he is anſwerable, the King may proſecute him, and he has not the Act of Indemnity to plead for him—If the Crime is not ſo, you need not put in that word of "Exception for Life."

Sir *William Williams.*] There were Judges who did act, by virtue of that Diſpenſation, as Judges. For thoſe to ſit and try men for their Lives, that were not Judges, I ſhould make no difficulty in them. *Wright* and *Alibone* are dead. It is a caſe worthy conſideration, when a man has no power, and ceaſes to be a Judge—Let that be your rule, as to this Exception.

Mr *Hampden*, ſen.] I ſpeak to your Queſtion, not the Debate. I am ſorry the Queſtion is brought to this. I am not of Opinion only to leave them out of the Indemnity, and as to *Weſtminſter-Hall*, if they have art and cunning enough, they may eſcape. This is a Crime the Law does not ſuppoſe, and if you cannot uſe the Legiſlative Power to puniſh ſuch Offences, it is ſtrange. Is it not Treaſon to ſubvert the Government as [well as] to clip a Shilling? What Government are we under? The Law is on their ſide then, and there is no remedy for theſe Offences; he muſt ſay *Amen* to what he is bidden to ſay is Law. If you ſay, ſo many ſhall be excepted out of the Act, and reſerve yourſelves for penalties afterwards, I agree.

Sir *Henry Capel.*] I think, what is ſaid is of the laſt conſequence. The Statute 25 *Edward* III names Treaſons for *Weſtminſter-Hall* to judge, and, at the ſame time, there is a declaratory Clauſe for the Parliament, in doubtful caſes, to judge Treaſon. Are there not Offences that no denomination can be given to? To ſubvert the Government, and ſubvert Parliaments, by taking away the Charters of Corporations, is certainly the greateſt of Treaſons. I take it for granted, that ſuch Offenders cannot be tried by the Laws, as they ſtand, and muſt they not be puniſhed? I hope that ſort of Doctrine will not be here. Such Treaſons are to be puniſhed by Parliament. I hope we ſhall never depart from that Doctrine. I will not.

Major *Wildman.*] I had not been called up now, if this Doctrine did not only pardon what is paſt, but endanger the Government for the future. 'Tis of dangerous conſequence, when we took up arms, and we were involved in Blood—In an univerſal Act of Oblivion, we confeſs, that we were the Offenders, and needed it. This new Doctrine, of having theſe Offenders to *Weſtminſter-Hall*, is as much as to ſay, they ſhall not be puniſhed. Theſe Offences cannot be puniſhed unleſs the Parliament puniſh them. It was the cuſtom of our Anceſtors to bind the Judges to the Letter of the Law, and to declare nothing Treaſon, but what is ſpecified, *&c.* and in a doubt to go to Parliament. Our Anceſtors thought, by that Statute, that there were Treaſons which could not be ſpecified; therefore left it to Parliament to do it. When the ten

Judges,

Judges, and the King's Counſel, anſwered the Queſtions at *Nottingham Caſtle*, propoſed them by *Richard* II, had they done any Offences againſt the Statute 25 *Edward* III? Nine of them ſaid, they were under fear of their lives—But in the midſt of that Mercy, they were baniſhed, and a Law made that fear muſt never be the Caſe—I move that theſe men may be reſerved to ſuch Penalties as ſhall be declared in Parliament. I am ſo tender of Blood, that I have ſaid nothing to-day to wiſh any body's finger to be cut; but we are like to be in Blood to defend what is begun, it may be, with a Sea of Blood; therefore, thoſe that have been the occaſion of all this Blood I would have ſuch juſtice upon, as may procure our ſafety hereafter.

Sir *Thomas Littleton.*] I am as much againſt a general Act of Indemnity, as againſt excepting all. Suppoſe you declare them in as hard words as you pleaſe—but I would do it to reconcile the Nation. Make them ſupport the Government by ſetting all mankind at eaſe, (ſome muſt be excepted) and that will do your Buſineſs.

Sir *John Lowther.*] I am not for a ſeparate Queſtion, but for complicating all together. If you divide the Incapacity, there is a legal Incapacity that will involve a great many. I am for ſetting all at eaſe but Papiſts.

Mr *Howe.*] As for excepting all in a lump, I am againſt it. Many are fit for Fines that are not fit to die, nor fit to bear Offices.

Reſolved, That no Perſon ſhall be excepted out of the Bill of Indemnity, as for Life, upon this Head.

Reſolved, That ſome Perſons ſhall be excepted, *&c.* as to other Pains and Penalties, not extending to Life.

Monday, June 17.

On the Heads for the Bill of Indemnity.

Mr *Garroway.*] You ſay in your Vote, "Some Perſons ſhall be excepted." If no body elſe will name a Perſon, I will name one who ſat in *Magdalen College* Commiſſion. It is *Jenner.*

Mr *Brewer.*] He was not one of the Judges of the *King's-Bench*, and I ſee not how he can be under this

Head of the "Diſpenſing Power." He was a Baron of the Exchequer.

Mr *Hawles.*] Perhaps he gave his Opinion for it, and I believe it, but it appears not to us; though poſſibly he may be on ſome other Head. I have examined, and I know of none, and can find none—There were ſome Fines ſet, and you enquired of Sir *Samuel Aſtrey*, and he informed you, that a Grand Jury was diſcharged—And you have not then any Evidence. Whoever made that Patent is as much criminal as any body, whether the Attorney or Sollicitor General.

Sir *Henry Capel.*] Two things you are to know. One, who gave the Opinion in the Diſpenſing Power, in Sir *Edward Hales*'s Caſe. You were well moved to have the Patent produced, and then it may appear whether *Jenner* was one of them.

Sir *John Guiſe.*] It may happen, they may tell you upon what ground thoſe Patents of Diſpenſation were drawn.

Sir *William Williams.*] No Judge is to give his Opinion extrajudicially. There is no ſuch Patent in nature; but there is a Commiſſion with *Non obſtante*, and there were ſeveral Commiſſions granted out with *Non obſtantes.*

Sir *John Guiſe.*] There was, I mean, a Patent of Diſpenſation for Sir *Edward Hales*, under the Attorney's or Sollicitor's hands; they went upon their own heads, and drew it; and it was pleaded in his Caſe.

The Speaker.] I ſaw a Patent of Diſpenſation for moſt of the principal Papiſts about Town.

Mr *Hawles.*] The Docket of the Patent will diſcover from whence it came.

Sir *Robert Sawyer.*] There was ſuch a Patent, and it paſſed my Hand, and I will give a true Account of it. The firſt Warrant came to me the 21ſt of *November*, that did include both the Pardon and the Diſpenſation for the future. I ſaid, "I could not paſs it." I told Mr *Burton*, "that the Diſpenſation would ſpoil the Pardon." I will ſhow you the whole: I have almoſt worn out the Papers in my Pocket. After I had told him my Judgment, he brought me a Warrant for a Pardon of what belonged to the King. On *December* the 31ſt, they brought this Patent in queſtion. I told them then, "I could not paſs it;" and

I told

I told the King, " that in Point of Law, the Power was not in the King." The King referred me to my Lord Chancellor and Lord *Sunderland*; they told me, " I was but a miniſterial Officer, and might do it." I did not conceive the King had that power, and I could not do it. The King deſired my reaſons under my Hand. I conſulted an honourable Perſon, Mr *Finch*, and then gave it under my Hand. The King ſaid, " He had a reſpect for me; but will you agree to it, if it be the Opinion of the reſt of the Judges?" I ſaid, " I was but a miniſterial Officer; but if it was the Opinion of the Judges, I muſt obey." I heard nothing farther till three weeks after; when the King ſent for me again; where were preſent the Chancellor and Chief Juſtice. The King ſaid, " I am adviſed by the Judges that I have that Power;" and then it was brought, and I, as a miniſterial Officer, did paſs it. Soon after, ſix of the Judges were turned out—Then they brought *Walker*'s Patent—I had the greateſt veneration for the Judges not concurring—If they come to be of that Opinion for fear or expectation of Preferment, the Nation can never be ſafe. I begged, on my Knees, that the King would put me out of my Place. I deſired to know, why I was not turned out? I was told, " Becauſe the King would not gratify another to come in my Place." Then I was brought the Duke of *Berwick*'s Patent of Lieutenant and *Cuſtos* of the Foreſt. I told them, " I would not paſs it with a *Non obſtante*." I was ſent to by the Chancellor " that the King would remove me." Nobody then about the King, but knows I ſtood ſtiff upon it. I was Attorney in all theſe tranſactions, and you will find my Integrity the greater, that I could hold it in thoſe times. I knew, all things were ſet up to introduce Popery. I gave my Opinion, " that the Leaſe of the Exciſe, on the Death of King *Charles* II, was a void Leaſe," though there was an overbalance of Judgment that the Leaſe was good. There was another project of *Brent*'s to ſet a new valuation of Firſt-Fruits; they were then undermining the whole Clergy of *England*. The Commiſſioners of the Treaſury were glad there was an obſtacle put to it. I will ſhow you all my Papers that I have to juſtify me. I never had a Pardon, nor ever deſired it.

Mr

Mr *Hawles.*] Upon what has been opened by *Sawyer*, upon this Head, I think him the greateſt Criminal upon this Head. This Gentleman was not ſatisfied that this Patent was legal; why did he give it out then? I am ſorry to ſay, that a certain learned Member had a Hand in paſſing theſe Patents, (there were many Patents paſſed to Perſons that did incur the 500 *l.* Penalty) and was earneſt for the 500 *l.* men.

Sir *Robert Sawyer.*] Mine was but a private Opinion, not a judicial Opinion. The Judges are the King's Counſel, and they are adviſed with; but the great hurt is when Judges are corrupted in Opinion. I ſubmit whether any Officer muſt not do as I did.

Mr *Howe.*] *Sawyer* has endeavoured to vindicate himſelf. I am not a Judge of the Law, but when he comes to vindicate himſelf, then is the time to ſpeak to that. That Horſe which carries the firſt ſtage, and that which carries the laſt, are all Poſt-Horſes alike. It may be, ſome would be content to be hanged to leave 1000 *l.* a year to their families. I hope theſe Judges and others, *&c.* may be reduced to their former Eſtates that they had, before theſe Crimes were committed. They would be willing to ſit down with two or three hundred pound a year, and laugh at us. I would move ſomething, to know the names of the Perſons you would enquire into for acting and promoting this. I will give my Opinion as freely as any body, to provide for the future againſt the Infamy of ſuch Perſons to be in Office, who have very lately been in arms againſt us.

Mr *Hawles.*] The way to know is from the Officers of the Court in the Caſe of *Godwyn* and *Hales.* Let us not give occaſion to think we do injuſtice, but inform ourſelves.

Mr *Boſcawen.*] I would know what Oaths the Judges and great Officers of the Law take. If their Oaths, and the fear of braking them, will not keep them to their Duty, you may proceed farther.

Sir *Thomas Lee.*] If I thought you would not proceed without proof, then there muſt be a Committee to enquire. I ſuppoſe, when you come to apply puniſhments, you will hear every man what he has to ſay in his own defence.

defence. One tells you, "he knows not who was there;" another, "he knows not how Opinions were given." 'Tis apparent that the Judges gave no Opinions; but their Practice gave the Example, and it was an Opinion that put on the Chimney-money upon the Paupers, which *Sawyer* gave. *Archer* and others, who had their Patents *Quamdiu*, &c. though they retained the ordinary Fees of Court, yet not their Salary of 1000 *l. per Ann.* If the matter be apparent, then you may proceed, and not loſe time.

Col. *Auſten.*] If the Juſtice of the Houſe can go no farther, it is in vain to proceed. If you will not come to a Juſtification of what you have done, let us go home.

Sir *William Strickland.*] Thoſe who were the great darlings of King *James*, not to turn them out! Thoſe are the Perſons to be excepted. I mean *Sawyer.*

Mr *Harbord.*] What is the Reaſon for taking away Chimney-money? Was it not, becauſe it was barbarouſly collected againſt Law? The King's Counſel gave their Opinion, to ſhelter the Privy Counſellors, that Ovens and Cottages ſhould all pay. Theſe have grown up by the advice of *Sawyer*; and if you fall not upon them that did this, you are defective in Juſtice. I would always have it a maxim here, "that to levy Money againſt Law is Treaſon." If privately, cunningly, and traiterouſly they give an Opinion in Law, thoſe you muſt lay hands on. I am tender of Blood, and cannot give my conſent where no Blood has been ſhed. The Blood I mean is that of Sir *Thomas Armſtrong*, a moſt barbarous thing! And all foreign Nations where I have been cry out upon you, and ſay, there is no living amongſt you. I would except them even for their Lives.

Sir *Robert Howard.*] This is not your Buſineſs now, but what you will do on the Judgment given in *Hales*'s Caſe. *Sawyer* has told you, why he did do it, and has Papers in his Pocket. He tells you, "He had the Opinion of the Judges, but the King and my Lord Chancellor told him ſo." All muſt be ſeen before you, and perhaps you may make theſe things clear; and let Sir *Samuel Aſtrey* and *Henley* bring you the Judges names. But this now looks a little ſhort, that *Sawyer* did this upon hearſay; but

I would

I would not condemn him upon hearſay; ſend for *Aſtrey* and *Henley*, and adjourn it to to-morrow.

Sir *William Williams.*] 'Tis true that this extrajudicial Opinion was given, but how ſhall the Houſe be ſatisfied? I was preſent in Court when Judgment was pronounced. It was by Lord Chief Juſtice *Herbert*. He had conſulted all the Judges, and there was but one Diſſenter; on that Opinion, Judgment was given. But that they ſhould be quiet under that Law, and not be contradicted, is ſtrange to me, who gave and perſiſted in this Opinion. But whether you will refer it to a Committee, or ſend for the Officers, I ſubmit.

Sir *Robert Sawyer.*] I will bring my Papers to morrow, and you may have all the matter before you.

Sir *John Lowther.*] I think it not poſſible to come to a Reſolution of this Queſtion, till you have the State of this Head before you. The words of the Head are, "adviſing and acting in purſuance of the Diſpenſing Power, *&c.*" So you muſt make no diſtinctions; they are all equal crimes, and when you come to the Caſe of *Hales*, you will not think that ſo great as the Lord-Lieutenant's, who came down to urge Perſons to declare for the taking away the penal Laws, and the Teſt, and to act without it. This is levying War openly. The Judges, who have given their Opinion in *Weſtminſter-Hall*, I cannot think more criminal than thoſe that contrived it. I preſume, the Wiſdom of the Houſe will weigh the "adviſing and aſſerting" it. I preſume, you will find "acting" one of the leaſt Crimes. Conſider the quality and greatneſs of theſe men; you will not lay the load upon ſome men only, and let thoſe equally concerned eſcape.

Mr *Garroway.*] I riſe up to ſecond the Motion, "That Serjeant *Streete* and Juſtice *Powell* may be here to-morrow."

Mr *Ettrick.*] When you ſent for the Judges laſt, you ſent ſome of your Members to attend them. *Powell* is a fitting Judge in the Lords Houſe, and I think it fit you do it to him.

Mr Juſtice *Powell*, Sir *Thomas Streete*, and the Prothonotary, Secondary, and Remembrancer, were ſent for.

Tueſday,

Tueſday, June 18.

An Addreſs from the Lords to the King relating to ſecuring the Forts and Iſlands*, *&c.* was ſent to the Houſe for their Concurrence.

Mr *Garroway.*] This Addreſs is as if the King were in *Holland*, and Stadtholder, to teach him his duty, and not King of *England.* I am againſt it.

Sir *Joſeph Tredenham.*] If this Addreſs be publiſhing our weak Condition, I am againſt it. 'Tis certain, theſe Places are in no good condition, and ſince it is not mended, it is our duty to repreſent it to the King, and we cannot elſe do right to our Country; eſpecially this coming from the Lords, makes me for it.

Sir *Henry Goodrick.*] *Guernſey* is in ill condition, though the beſt harbour in the World. It lies oppoſite to *France.* There are no guns, nor ammunition. The conſequence of the place is great. As for the Iſle of *Wight*, it is a place of infinite conſequence, and ſo ill-fortified, that the Governor, Sir *Robert Holmes*, at his own charge, has done ſomething. *Yarmouth* and the Caſtles are much out of order. I hope it may for the preſent be done without much charge. I would concur with the Lords.

Sir *Thomas Lee.*] I find we are now upon the Debate of Addreſs to the King about the Iſle of *Wight*, *&c.* and therefore it is not fit to paſs at the Table in a moment. I could have wiſhed the King had ſent to you before, or you to him. I hear of Garriſons making, and we may draw more Garriſons upon ourſelves, and at another time it might be ſuſpected. For *Jerſey* you may do ſomething, and I am ſorry to hear from *Goodrick*, "that *Guernſey* cannot be kept." The Lords, I believe, have had informations before them, and I would have you do ſo too, and conſider as they have done.

Sir *Chriſtopher Muſgrave.*] I take this Addreſs to be of great Weight. This has been examined by a Committee of Lords, and it is not uſual for us to take things

* The Places named in the Addreſs are "the Iſlands of *Wight*, *Guernſey* and *Jerſey*, *Man*, *Scilly*, *Angleſea*, and the Cinque Ports, *Milford*, *Pendennis*, and *Falmouth*, and all other Places oppoſite to *France* and *Ireland*".

upon

upon truſt. Inform yourſelves, as the Lords have done, and then, upon committing it, you may take the ſame ſteps, that the Lords have done, and then you are ripe for Judgment.

Sir *Henry Goodrick.*] The Fleet is now drawing towards *Breſt.* I ſee no manner of Summer-Guards, and we have nothing to ſend men into theſe Iſlands. I ſuppoſe they may land men out of *France* with flat-bottomed Boats; have we any Frigates to hinder a deſcent from *France?* Unleſs we ſend out ſome Ships preſently, we may run an irreparable hazard. This is the purport of the Addreſs from the Lords, and I hope it may be effectual.

Mr *Harbord.*] I am willing to commit this Addreſs. The Lords have had this before them three or four days, and I would go the moſt decent way to the King: I would examine the thing and the charge of it; it will coſt the King Money; therefore, upon the whole matter, I would commit it.

Sir *John Thompſon,*] It ſeems, the King has not been put in mind of this by his Counſellors, and therefore we muſt do it; but I will not ſee it with other mens eyes, when I can ſee with my own. I queſtion whether this Addreſs will not bring on the Conſideration of Money; and ſince this is for our defence, I would have the Committee take ſome care of the Navy, and ſee what preſent ſtate the Navy is in.

Sir *Thomas Clarges.*] This Motion of *Garroway*'s, of computing the charge, is letting the Lords in to raiſing Money. I do not know but the Commiſſioners of the Admiralty and Ordnance have done their duty; but this is too great a preſumption that they have not. We have given two Millions already, beſides the Revenue. I would have the Commiſſioners of the Admiralty and Ordnance give you an Account of their Proceedings.

Sir *Henry Goodrick.*] The Office of Ordnance has not wanted Application to the Treaſury for Money, which it wants. The Duke of *Schomberg* has made Application. Nor has *Wharton*, the Engineer, been wanting; he has viewed all theſe places, and has orders to make them in as good defence as poſſible.

Sir

Sir *Thomas Lee.*] You may enquire as much as you pleaſe into theſe things; but I think *Clarges* has minded you well of letting the Lords in to giving Money, though I know not how he can make out "two Millions" given. I think it for your ſervice to enquire if it will coſt you Money by an Aid, and you may ſee if the Revenue can pay it, and not do it without that, leſt you let the Lords into giving Money.

Mr *Howe.*] To addreſs the King to do what he has done already is a reflection. As for the Iſlands, I hope they may be ſpeedily done; and for *Londonderry*, I would ſee what forwardneſs we are in for *Ireland*, and would know how many *Dutch* Ships are to join us; and if, upon Enquiry, you find the *Dutch* Ships out, and *Ireland* in good condition, there will be no occaſion for this Addreſs.

Mr *Boſcawen.*] An Engineer was ſent to *Jerſey*, and *Guernſey*, and *Scilly*, to compute the charge. I deſire you to take notice, that, before you make this Addreſs, you ſhould inform yourſelves what care has been taken. I have this Morning ſpoken to Duke *Schomberg* about it.

Mr *Ellwell.*] Are we only to fight and have no trade? To be neglected, and no Convoys for Merchants? They make Fortifications in *France*, and ſhall we have no fear of Invaſion? There is no Militia, and *Pendennis-Caſtle* is in ill Condition, and lies open to the *French* and *Iriſh* too. I would have particular Inſtructions to the Committee to enquire into the Navy.

Col. *Birch.*] This Addreſs comes in a moſt unuſual way, but when any thing is before you, I would know the Bottom of it. I would have the Committee examine what is done, and what is not done. One Part of the Addreſs relates to Shipping; our ſafety is, in the firſt place, to be looked for. I deſire, a Paper may be laid before us of the number of Ships in the whole Kingdom, how many fit, and not fit, and where they lie. Some talk of 30, 40, and 50— ('tis none of my trade) I would know what you have for reſerves, with the ſeveral particulars of Guns and Burdens.

Serjeant *Maynard.*] I would have the Committee enquire into the Captains of the Navy. I hear there are young

young men put into Ships, that never were at ſea before. The Queſtion was formerly, "Was he a godly man." And he was put in. I aſked then, "Whether a godly man could make a Watch, or a pair of Boots?"

Sir *Thomas Lee.*] If being of a party makes men fit, I have heard that young men are fitteſt to fight. Thoſe that know, and have fought, are thought the fitteſt to judge. Lord *Torrington* * is fitter to recommend a Captain than I am, that live in *Buckinghamſhire*. The charge is computed at 100,000 *l.* a month, the Eſtimate, and when I have ſaid that, it will not bear the Charge of this Summer's Expedition (*and gives an Account of the Shipping*) But do what you can, there will be leakages. As many Ships as are appointed, are near ready, to a Ship. The King has ordered twenty to cruiſe betwixt *Scotland* and *Ireland*. Thoſe who are experienced were thought beſt to recommend Officers; and to my Obſervation, thoſe who were never in the King's ſervice are not ſo forward with their Ships as thoſe who were in the King's ſervice before.

Col. *Tipping.*] I was lately at *Portſmouth*, where I ſaw one of the greateſt Ships given in upon Account fitted, and weeds grew on her ſides, three times as long as the Table; which, Lord *Torrington* ſaid, muſt have been, at leaſt, three years laid up.

[The Addreſs was ordered to be committed.]

Mr Juſtice *Powell* attended, according to Order, and being called in,

The Speaker ſaid] The Houſe has ſent for you to deſire you to inform them, whether the Judges were ſent to to meet together in Sir *Edward Hales*'s Caſe?

Mr Juſtice *Powell.*] The Judges were ſent to to meet my Lord Chancellor at *Serjeant's Inn*, in *Fleet-Street*; all the twelve Judges were preſent, and there it was propoſed, Whether the King could diſpenſe, *&c.* in Sir *Edward Hales*'s Caſe? I beg the Favour to be excuſed from making anſwer as to Perſons. 'Tis improper for me to accuſe any. I humbly beg the Favour that I may be exempted. *And withdrew.*

Col. *Birch.*] It ſeems, he is tender in revealing what paſſed, on private conſiderations; but what was done upon that Occaſion was on a public Account. I conceive it

* Admiral *Herbert*, ſo created a little before this Debate.

not

not the Intention of the Houſe that this Gentleman give Evidence; but I think it neceſſary that you know what Opinion was given, becauſe you were told that eleven Judges were of that Opinion.

Mr *Leveſon Gower.*] I am of Opinion, that no Imputation can lie upon him to tell you the Opinion they gave; but I would not aſk him what Opinion he was of; but how many ſigned their Opinion at that time.

Sir *Thomas Littleton.*] If you go through with this Queſtion, he may live uneaſy in his Judge's place. I doubt not, *Powell* gave his Opinion for it, and *Streete* was the only man againſt it. I think he has given a very particular Account to the Lords, and it is fit he ſhould do it to you likewiſe.

Mr *Garroway.*] I wonder what you ſent to this Judge for. Now he comes, he makes you a great Compliment, whether you will aſk him the Queſtion, or not? If the Crime be ſuch as that all is at ſtake upon it; aſk him plainly, what Opinion theſe Judges gave, but not himſelf. I hear he has frankly and freely given an Account in the Lords Houſe.

Sir *Henry Capel.*] Was this Judge in any public Court on oath, he ought to tell what he knows. For once, let us not part with our Laws, without ſome ſtruggle for it. I ſtand amazed that *Powell* is tender in it here. He is not to be excuſed for his Modeſty, though a good thing. When that compliment and excuſe is over, for the good of the Nation, he ought to give you a clear Account. I hope, you will tell him that this Houſe requires it of him to inform you, and I believe he will obey you.

[He was called in.]

The Speaker.] Mr Juſtice *Powell*, the Houſe has conſidered your Anſwer, and have commanded me to acquaint you, that for what concerns your ſelf they will not queſtion you, nor require an Anſwer; but for what you pleaſe of the other Judges, there can be no tye of Secrecy; you are under a duty to tell your Knowlege. This is not properly an Accuſation of the Judges, but your teſtimony is required to deliver your Knowledge.

Mr Juſtice *Powell.*] I am very free to declare any thing relating to myſelf, but to others, unleſs you command me, I deſire your excuſe. 'Tis at a great diſtance, a great while ſince, but I ſhall

declare what I remember. I am unwilling to incur the Diſpleaſure of this honourable Houſe—Going on *Wedneſday* or *Thurſday* in *Trinity* Term, [2 *James* II,] to dine at *Serjeants Inn* in *Chancery-Lane*, I was deſired to attend at the other *Serjeants Inn*, in *Fleet-ſtreet*, at four o'clock; where being met, my Lord Chief Juſtice *Herbert* told us what the buſineſs was. He deſired my Opinion, with the reſt of the Judges, in Sir *Edward Hales*'s Caſe. He cited ſome Caſes to make out the King's Diſpenſing Power. He cited *Coke's* 12th Report. After he had done, it was my turn, as Puiſne Judge, to ſpeak. I anſwered, "The Caſe was of great Importance, and, for the preſent, I was not able to do it, till I had conſulted Books againſt *Michaelmas* Term." He ſaid, "He would have it on *Tueſday*." I ſaid, "The time was ſhort, but I would wait on him." *Milton*, who was then Baron, gave his Opinion, "That he might diſpenſe." The next was *Lutwich*, who ſaid, "He reſtrained it to this Caſe, and thought the King could diſpenſe [in this Caſe, but not *] in Eccleſiaſtical Caſes." He reſtrained it to that Caſe before us not relating to Religion." *Jenner* was next, who ſaid, "The King might diſpenſe." *Wright* was for diſpenſing. *Holloway*, I believe, was for diſpenſing; I cannot ſay it poſitively; I was at a diſtance. *Streete* was againſt it. Lord Chief Baron *Atkins* was at a greater diſtance; I could not well underſtand him; he cited ſeveral Caſes. Lord Chief Juſtice *Bedingfield*'s Opinion was, "That the King could diſpenſe." This is all I can ſay in the matter tranſacted ſo long ago. Nothing was put in writing, nor notes taken of what was then ſpoken. As for what concerns myſelf, I attended my Lord Chief Juſtice, at his Chamber. I called on Mr Juſtice *Lutwich*, who went with me, and there I heard firſt of the Judgment given on *Monday* morning. 'Twas given on *Monday*, becauſe there was a Grand Jury of Perſons of Quality that day, and it was thought the next would not have had ſuch an Audience, and therefore they haſted giving Judgment that day; ſo I did not deliver my Opinion. I beg pardon, it was my forgetfulneſs not to name *Wythens* and *Heath*—(*Upon the Speaker's aſking of them*, &c.) They were with the majority for the Diſpenſing Power. I think no perſons were preſent but the twelve Judges, and I am pretty confident of it. The Queſtion was delivered by word of mouth, by Lord Chief Juſtice *Herbert*, "Whether the King could diſpenſe with the Statute of 25 *Charles* II, and the accepting a Commiſſion by that Diſpenſation?" *He withdrew.*

Sir *Samuel Aſtrey*, being interrogated by the Speaker, ſaid,] Lord Chief Juſtice *Herbert*, *Wright*, and *Holloway*, were preſent at pronouncing the Judgment in the Caſe of Sir *Edward Hales* and *Godwyn*. The Opinion, in the Diſpenſing Power, was pronounced by Lord Chief Juſtice *Herbert*, who ſaid, "It was not only the Opinion of the Judges in the Court, but he had conſulted the reſt of the

* Theſe words are inſerted from the Journal.

Judges,

Judges, and it was the Opinion of ten of them." He ſaid, "There was another Judge did heſitate when they did meet." I beg pardon if I miſtake in words, but in ſubſtance he ſaid) "Ten were for it." Juſtice *Streete* was againſt it, and another Judge did heſitate, but that he was informed, by *Holloway*, that Juſtice *Powell* had declared his Opinion for it." *He withdrew.*

Sir *Robert Henley*, being interrogated in like manner, ſaid,] I was preſent in Court 2 *James* II, when the Caſe of *Hales* and *Godwyn* was argued. There were preſent in Court Lord Chief Juſtice *Herbert*, *Wythens*, *Holloway*, and *Wright*. The Caſe was argued but once, by a young Gentleman, Mr *Northey*, againſt the Diſpenſing, for *Godwyn* againſt *Hales*, upon an Action of Debt on the Statute, *Tam quam*, &c. The King's Counſel argued for the Defendant on the other ſide. I am certain theſe were the Judges. I looked on my Book. The Caſe was argued but once, not *ſeriatim*, but by *Herbert* only: He ſaid, "He had conſulted the Judges, and they did all concur; but that *Streete*, and another Judge doubted."

Mr *Garroway*.] I have ſomething to aſk more. I would know who were the King's Counſel, who argued againſt the King? That was a very pleaſant thing.

Sir *Robert Henley*, being aſked, *&c.*] Sir *Thomas Powis*, the Sollicitor-General, argued for *Hales*, and Mr *Northey* for the King.

Sir *Samuel Aſtrey*.] I cannot charge my memory with Lord Chief Juſtice *Herbert*'s Argument.

Sir *Robert Henley*.] I remember, the Precedents cited were for "the neceſſity of it, and that the King was judge of that neceſſity." The Rule-Book will exactly tell the day.

The Oath of the Attorney-General was read.

The Eccleſiaſtical Commiſſion was read.

The Speaker to Mr *Bridgeman*.] The Houſe have read the Eccleſiaſtical Commiſſion, and they find your name in it as a Regiſter. They would know whether you attended as Regiſter?

Mr *Bridgeman*.] I was generally there and attended, but, in my abſence, Mr *Smith* of *Doctors Commons* attended. In the Buſineſs of *Magdalen College*, one *Tucker*, my Clerk, then attended. I was ſent for to *Weſtminſter*, being in the Secretary's Office, and the Commiſſioners gave me a draught of a Warrant to ingroſs: I heard nothing of it before. Lord *Sunderland* brought it, but I remember not who carried it to ſeal. I entered all down in a Book, who were preſent. *Smith* and *Tucker* were my Clerks that entered them in the Book. We had looſe Papers as Minutes, which were entered after the riſing of the Court, and the Book was the Regiſter I kept.

Sir *Thomas Clarges.*] I hear of a Committee of Lords and others, called "Regulators for all *England*;" I would know whether there was ſuch a Committee, and who ſat in it?

Mr *Bridgeman*, being interrogated, *&c.*] I attended the Commiſſion, at the Judgment given upon the Biſhop of *London*. I cannot charge my memory with the Names of the Commiſſioners in the Books, but I remember there was a difference of Opinion, at two meetings; they did not agree both times. The Lord Chancellor, Lord *Powis*, Lord *Caſtlemaine*, Sir *Nicholas Butler*, and Father *Petre*, were of the Committee for Corporations. I cannot ſay, they ſent Inſtructions into the Country, for I attended only in the Secretary's Office. That Buſineſs was managed by Mr *Brent* for me. I was frequently ſent for to attend the Committee. I have ſeen the Names of Perſons in the Country, that conſented or refuſed taking the Penal Laws and Teſt, *&c.* but I never ſaw any but looſe Papers, all in one Hand-writing, and in the Secretary's Office, and, I believe, ſome of theſe Papers are in my Cuſtody ſtill. I was not employed in the ſurrender of Charters, only in the Secretary's Office. I was preſent when the Warrants were ſigned for the Commitment of the Biſhops to the *Tower*, and I remember not who ſigned; only two or three Lords went out, and did not ſign. I remember the Earl of *Berkeley* only. I was indiſpoſed in my health, and remember no more.

A Copy of the Commitment of the Biſhops to the *Tower* was delivered, in and read.

Mr *Smith.*] I obſerve that *Bridgeman* was ſick, when he had no mind to tell who they are; pray aſk him very ſtrictly, whether there were any more, and who they were?

Sir *Robert Clayton.*] I would know, whether *Penn* and *Lobb* were of that Commiſſion?

Mr *Garroway.*] I would have Mr *Bridgeman* recollect himſelf of the Names, from his Notes.

The Speaker.] Mr *Bridgeman*, the Houſe takes notice that the Perſons you name are either dead or abſent; can you name any others preſent?

Mr *Bridgeman.*] There were my Lord Chancellor, Lord Preſident, Marqueſs of *Powis*, Earl of *Caſtlemaine*, Mr *Petre*; theſe met at Lord *Sunderland*'s Office. *Brent* and *Trinder*, to my beſt remembrance, managed. *Robinſon* attended. I never ſaw *Penn* nor *Lobb* there. In the Caſe of the Biſhop of *London*, Lord Chief Juſtice *Herbert* diſſented. In *Magdalen-College*, and all public matters,

matters, he diſſented to every one. I know not particularly as to the Biſhop of *London's* Plea, but he diſſented to all publick matters.

Mr *Kendall.*] I hope you will conſider Lord Chief Juſtice *Herbert*, for the ſake of a noble Perſon, his Brother (Lord *Torrington*) who lately had your thanks for his good ſervice *, *&c.* and ſhow him favour for his ſake: Though he is of a different Opinion from his Brother †, yet he has a natural Affection for him, and I hope you will conſider him for his ſake.

Mr *Holt.*] I had my education in *Wincheſter-College* with Lord Chief Juſtice *Herbert*. I have diſcourſed this Point of Diſpenſation with him. He aimed at nothing of Preferment; it was his Opinion and Judgment; but he went not ſo far as King *James* would have had him, and, in the Proceedings of the Eccleſiaſtical Court, he did diſſent from the reſt.

Sir *William Williams.*] When he gave Judgment, *&c.* he did ſay this that did allay me: "He would not ſerve purpoſes to deſtroy Parliaments, and he would not give his Opinion to diſpenſe the Lords and Commons from taking the Oaths, *&c.*"

Sir *Robert Cotton.*] If *Herbert* did not come up to the others, and order ſoldiers to be hanged up for deſerting their Colours in time of Peace—I would except thoſe who had their Hands in Blood. You have heard how he carried himſelf in the Eccleſiaſtical Commiſſion.

Sir *John Thompſon.*] I think we are out of the way. We were for naming men to be excepted, and why ſhould one man be excepted, and not another? If you will excuſe them all, with all my heart. If they partake of the ſame Crime, it is fit they ſhould have the ſame Puniſhment. Conſider in the lump, whether they ſhall be excepted on this Head, or not?

Mr *Boſcawen.*] I would not have all Oblivion and Indemnity. I would have ſome puniſhed for Example.

* See p. 262. Note.

† So little Regard had the Chief Juſtice's neareſt Friends to his Opinion, that his Brother, Admiral *Herbert*, being preſſed by the King to promiſe that he would vote the Repeal of the Teſt, anſwered the King very plainly, "That he could not do it either in Honour or Conſcience." And though he was poor, and had much to loſe, having Places to the Value of 4000*l.* a year, he choſe to loſe them all rather than comply.

God forbid all Offenders ſhould be excepted! I took the Senſe of the Houſe to be, that ſome ſhould be excepted, *&c.* and that implies you will excuſe others, and I am at liberty to pardon *Herbert*.

Sir *Joſeph Tredenham.*] By what I have heard ſaid, *Herbert* is not one of thoſe notorious Offenders you aim at. He tied up his Opinion to one particular Caſe, and gave not a general Opinion.

Mr *Papillon.*] You have excepted none yet for Life; this Head is only for Pains and Penalties. I ſee not how you can excuſe this Perſon, if you take any other Perſon in. All have been upon this foundation. If you excuſe this man totally, he may be Chief Juſtice again, and then maintain this Opinion. He has been the Head of this Opinion; ſo you muſt do ſomething on him, but as little as you will.

Mr *Hawles.*] If I would conſult my affections, this is the Gentleman I would have pardoned. I know him an honeſt Gentleman. If you excuſe him becauſe a man of learning, ſtrike off all that Head. *Milton* is not a man of learning, and *Wythens*, I think, very little ſo. If he judged well in other things, except him now: He went out upon the City-Charter; he was not for a total Diſpenſing Power; he was for a man to be hanged in his own Country, and not at *Plymouth*, for deſerting. If you will admit theſe excuſes, lay all aſide. If I would plead for any of them, it ſhould be for him. But ſince the Penalty of Death is paſſed over, yet I would have a Puniſhment, though a mild one, and except him.

Mr *Leveſon Gower.*] If he muſt be excepted out of the Act, I would have your Advice, whether you will not make a conditional Proviſo that the King may pardon him. I hope it will be in the Conſideration of the Houſe, that then he may be left to the King's Mercy, when you come to the Pains and Penalties.

Sir *Robert Howard.*] I am willing this Perſon receive favour and mercy, but not for the Reaſons propoſed, "That his Opinion was his Conſcience and Judgment." But the matter is, now we are againſt the Diſpenſing Power, that we ſhould be the great Diſpenſers of the Law. They held an Opinion, "That the King was ſupreme, and might diſpenſe;"

diſpenſe;" ſhall we diſpenſe with this? We may become cenſured in this Place. As he was the firſt mover of this Diſpenſation, ſo his Brother, the Admiral, was the firſt who gave his Opinion againſt it, and frankly gave up all he had. I think the Judgment muſt be, he muſt be excepted, and then that you will petition the King (for his Brother's ſake, who deſerves as much as any man) that it may be upon his merit he is pardoned.

[*Reſolved*, That Sir *Edward Herbert* be excepted out of the Bill of Indemnity on the firſt Head.]

On Mr Juſtice *Wythens*.

Sir *John Lowther*.] I am afraid that Excuſes will be unwelcome to this Houſe. I ſay, in behalf of this man, that no ſooner was he promoted, but to all ſorts of men he denied Patents of Diſpenſation from the Oaths. He did it only as to Officers in the Army: But he has ſaid before good Witneſſes, "That he wiſhed his Tongue had cleaved to the roof of his Mouth, when he gave Judgment, *&c.* and if the Parliament ſhould conſent to the Diſpenſing Power, he ſhould never think them men of Honour more." He loſt his place for his Opinion about hanging the Soldier, who run from his Colours. He was never corrupt; he never took a Shilling. I perceive I am ill heard upon this Subject, (*there was a great noiſe*) but I leave him to your mercy.

Sir *Francis Blake*.] This man was in the Blood of Sir *Thomas Armſtrong*; he was one that condemned him.

Mr *Harbord*] This Gentleman was brought on his Knees in this Houſe, about the abhorring Petitions to addreſs the King for the ſitting of the Parliament *.

Sir *Chriſtopher Muſgrave*.] I ſuppoſe you intend an Indemnity, and your Exceptions not to be many. I know this Gentleman, and muſt do him right; his Opinion was only to that particular matter before him. (*Hales*'s) *Herbert* wrote a Book in Defence of the Diſpenſing Power; but this man did not: No man can think me a favourer of this Diſpenſing Power. I beg your Mercy for him.

Mr *Hawles*.] This man was deep in almoſt every thing:

* See Vol. VII. p. 391.

Except as to the Soldier, you will find him involved in all things.

Sir *John Lowther.*] I have no Obligation to this Gentleman, and therefore can only teſtify what I have ſaid. He ſtayed but one entire Term in his place, after he gave the Judgment of the Diſpenſing Power. There is Mercy before you as well as Judgment, and I hope he will find Mercy.

Sir *Joſeph Tredenham.*] I was with him in the Weſtern Circuit, and I muſt bear him witneſs, that he was againſt the Diſpenſing Power.

Reſolved, That Sir *Francis Wythens*, and Sir *Richard Holloway*, be excepted.

On Lord Chief Juſtice *Wright.*

Sir *Thomas Clarges.*] If any fact he hath done be Felony, or Treaſon, make his Eſtate forfeitable, and I am for it. But where there is no Offence in Law that he has committed, I would not have him excepted.

Sir *Thomas Littleton.*] It would be an ill thing for ſuch a man to be upon your Books, to ſtand there with no mark upon him.

[*Reſolved*, That Sir *Robert Wright* be excepted.]

On Lord Chief Juſtice *Bedingfield.*

Sir *Thomas Clarges.*] This is an extraordinary Precedent. I would have the Committee ſearch Precedents. I have not known, when a man has had no capital crimes againſt him, that, when he is dead, you have proceeded againſt him.

Col. *Tipping.*] If you will not except him out of the Indemnity, why have you excepted *Herbert*, and the reſt? Lord Keeper *Coventry* was fined 10,000 *l.* when he was dead, for the Judgment he gave upon *Lilburn* in the *Star-Chamber.*

Sir *Chriſtopher Muſgrave.*] This Caſe is quite different from the reſt. This Gentleman gave no Judgment in Court, any more than in private Diſcourſe and Conference, and I cannot give the ſame Judgment againſt him as if he gave it in Court.

Sir *Joſeph Tredenham.*] Before you paſs Judgment upon this Gentleman, to attaint him, ſince he is laid in the Duſt,

pray

pray conſider his innocent Poſterity, and puniſh not them as if they were really guilty.

[No Vote paſſed upon him.]

Wedneſday, June 19.

Debate on the Lords Amendments to the Bill of Succeſſion; "the Princeſs *Sophia*" being named in the Succeſſion.

Sir *John Lowther.*] This looks like a kind of Perpetuity. There may be Revolutions and Changes; this Princeſs of *Hanover* may turn Catholic. Queen *Elizabeth* would not determine the Succeſſion, and ſhe was a wiſe Princeſs. Till I am better convinced, I cannot agree to it.

Sir *Rowland Gwynn.*] In the Inſtrument, you have limited the Succeſſion of the Crown, and I would do nothing contrary to it.

Mr *Sacheverell.*] I deſire you to conſider what you do, before you agree to this addition. Is it your Intention that thoſe bred abroad *Calviniſts* or *Lutherans*, that may come to the Crown, and receive not the Sacrament according to the Church of *England*, ſhall be taken for Papiſts? Will you exclude that King that ſhould marry a Papiſt, and know her not to be ſo? To exclude a Papiſt barely, ſo far I can agree. The other Clauſe is putting it into the Power of the Privy-Council to name you a King. He ſhall be no King, till he ſhall take ſuch an Oath as is tendered him by the Privy-Council, and it lies in the Power of the Council to tender it. Had it been left to the Parliament, I ſhould not have been againſt it, but I would not leave it in the Power of the Privy-Council to tender the Oath, or not.

Sir *Thomas Clarges.*] When Queen *Elizabeth* died, King *James* was in *Scotland*, and he had no invitation to come hither, but by the Privy Council. Cardinal *Richlieu* uſed to ſay, "Two words often ſpoiled things, *faiſons mieux.*" There has rarely been this occaſion. When Queen *Elizabeth* was declared Queen, the Privy-Council invited her to accept of the Crown.

Sir *Thomas Lee.*] The Privy-Council did it not alone, and there was no ſuch Power in the Council alone; but it was done by the Lords, the Lord Mayor, the Noblemen, Gentlemen, and Citizens.

Mr

Mr *Boſcawen.*] Though he be a Papiſt in his Heart, yet if he takes the Oaths, he may be King. The Prince of *Wales* beyond ſea, by this Amendment, may be called in.

Sir *Robert Sawyer.*] The Privy-Council ſummon all the Lords in and about the Town. The Lord Mayor is not ſummoned; but when they proclaim the King, the Lord Mayor is ſent for to proclaim him. A ſhort Amendment may do this; ſome Power muſt be lodged ſomewhere. 'Tis of dangerous conſequence, if on the ſudden, and no Parliament ſitting; and he that comes in may be a Papiſt.

Sir *Robert Clayton.*] I have not looked into the matter much. I have ſeen the original Proclamation of King *James.* The Lord Mayor of *London* ſigned the Proclamation firſt; his Power was not determined by the King's death; his Power was in being when all other Commiſſions ceaſed, for he has it by Charter, and not by Commiſſion.

Col. *Birch.*] Conſider well, before you throw out this Clauſe; but make it larger, "That the Lord Mayor, and the Lords about Town, may proclaim, *&c.*" You may mend it at the Table.

Mr *Garroway.*] I think it not ſo eaſy to mend it. I hope Gentlemen will not exclude themſelves from this right of being a Party in proclaiming the King.

Mr *Hampden.*] Whatever the Clauſe is, be pleaſed to remember "That the Lords deſire you to ſit, and have ſomething to communicate to you of great Importance." All I know of it is, if you delay this Bill, it may be of little uſe to you.

Sir *Thomas Lee.*] I deſire Gentlemen to conſider, that, if you adjourn this till to-morrow, no Debates can intervene between it. I think the Bill has lain too long already, and ſhamefully too long upon the Table. Therefore I propoſe *Friday* *.

Mr *Garroway.*] Perhaps ſomething in the Letters ſent you from the Lords may occaſion new thoughts; therefore read them firſt †.

* The Clauſe occaſioned the Loſs of the Bill this Seſſion, both Houſes adhering, the one to retain, the other to reject it. Add to this, that it became leſs neceſſary on Account of the Birth of the Duke of *Glouceſter*, (*July* 27.)

† Theſe Papers were ſent them by the King, with his Order to communicate them to the Commons. They were ſeized in a Ship that ſtole out of *Liverpool.*

The

The Letters were read. They were in a diſguiſed Style, upon merchandize, and other things, with affairs relating to *Ireland*, and one in a Quaker's Style.

A Letter directed to the Lords Spiritual and Temporal to this Effect: "That the Prince of *Orange* taxes the King with force to ſubvert the Proteſtant Religion, when his Forces were not of that ſtrength. He ſpeaks, in his Declaration, of the *French* League, but when got into the Throne, nothing more was ſaid of it—The Treatment he has given to the Proteſtant Religion in *Scotland*—Murder, Bloodſhed, and Treaſon, the Effects of the Reformation. He declares he will ſecure Liberty of Conſcience, and provide for the national Church eſtabliſhed by Law, with Indemnity for what is paſt." This Letter from King *James* was intercepted in *Lancaſhire*.

In the ſame Packet was intercepted a Proclamation [of King *James* II, dated *Dublin-Caſtle*, *April* 1, 1689] importing "Liberty of Conſcience in general, and not King *James*'s own Religion in particular, though the Prince of *Orange* impudently aſſerted the contrary—Aſſerts the Prince of *Wales*—Commands all his Subjects to declare for us—Will pardon all crimes, but ſuch as voted againſt our right, and thoſe who came over with the Prince of *Orange*, for a Terror to all that have committed ſuch crimes, *&c.*"

Another Letter, "of the *French* Fleet coming for *England*, &c."

Another "giving an account of the Siege of *Londonderry*, and that *Kirk* will be warmly received. That the Act of Settlement is taken off—with Blank Commiſſions for *England*—If any body writes in the Name of *C. Powell*, he may be truſted."

Mr *Garroway*.] It has been ſome wonder to me that the relief of *Ireland* has been ſo ſlow. I hope this will quicken thoſe it concerns. Let them look to it whom it concerns, and if they give not a good Account of it, you may call them to queſtion.

Mr *Howe*.] It ſeems, the Committee is fallen that was to draw up the Impeachments; 'tis time to call thoſe Perſons to queſtion before they do more miſchief; if we loſe *Ireland*, and *Scotland* be loſt, we are never like to give an account of *England*. A great many of King *James*'s former Servants are ſtill in employment; they are too many to name them. Some in the Lords Houſe have proteſted under their Hands, "that we cannot impeach Commoners"—I think all theſe Perſons ought to be proceeded againſt.

Sir *John Guiſe*.] What you have before you is of the greateſt Importance.

Mr

Mr *Hampden.*] This was thought, by the King, of great weight and conſideration. Two things in theſe Letters are clear; the intended Invaſion, and a Conſpiracy in *England.* They are no fictions, nor Plots forged upon you; but has there been more Money given than is needful? You have given great Sums, and great Sums, I find, have been employed. In the Civil Government, not half has been applied to it, but to the public Charges. The King, I may ſay, has robbed himſelf to ſupply the Public. You ſay yourſelves, the Fleet coſt you 1,300,000 *l.*—The Civil Government, the Money for the *Dutch*, and that borrowed of the City. This is but head Arithmetick, but I ſay this in general, that there is not ſo much miſmanagement, nor miſcarriage of the Sums you have given, (*and gives a large Account of the Revenue.*)

Mr *Leveſon Gower.*] The honourable Gentleman has propoſed nothing. I ſhould be glad to hear of ſomething of what is wanting, and where it may be had.

Mr *Hampden.*] I have told you the danger, and the King has ſent a Letter to have your aſſiſtance. Pray tell the King how the *French* ſhall be kept out. One thing I will propoſe; put the Militia in good Order, and what the King wants ſupply him with.

Mr *Smith.*] No doubt the King deſires your advice to extricate him out of his danger, but I think the Accounts proffered to be ſhowed us are not ſo proper at this time. The Army is upon the Roll 60,000 men, and I can make it appear, that there are not 40,000 men; ſo there is ſomething ſtruck off in the charge. I know no way to ſecure you, but to ſecure the moſt conſiderable Papiſts in *England.* I would know why Perſons have ſtopped the Lieutenancy of *Middleſex* from ſeizing Papiſts, and taking away their Horſes? I ſhould be glad to give Money—King *James* takes Eſtates in *Ireland*; I know no better way than to ſeize their Eſtates, like him, for your uſe, and I doubt not but thoſe will ſupply you for the preſent.

Mr *Howe.*] I hear it ſaid, "there is no Money miſplaced." I would hear how it is applied. I ſhall give it more heartily though not ſo diſcreetly as thoſe who were of King *James*'s Council, and now in Council and Employ-

Employment. I would know the retarding of the Fleet, and the relief of *Ireland*. I believe thoſe about the King do tell him. We ſee miſcarriages; they cannot be at our doors, nor the King's. There are ſeveral in Council, not our Friends. He that was againſt abdicating King *James*, and "the throne not vacant," is not fit to be truſted in King *William*'s Council.

Sir *Thomas Clarges*.] By what we find from theſe Letters, we ought to provide for our ſecurity; but to have a ſad tale told us, and Money at the end of it, is very extraordinary. Let us have the ſtate of the monthly Revenue—All you have given will come in neat Money at St *John* come twelvemonth. I am not given to farming, but, I believe, the Money in the Poll-Bill may be rated at 600,000 *l*. You are told by *Hampden* there is need of four Million; is that for four Months charge? Let us ſee our fair monthly charge; it ſeems ſo great; and yet the poor *Iriſhmen* are not relieved. We have had War with *France* and *Holland*, and not ſtill "Money, Money, Money." I have thoſe Accounts, and could have produced them, if I had thought of this. The Revenue this year is 17, or 1800,000 *l*. I hope, the Cuſtoms and the Exciſe will anſwer the Expence in the largeſt extent. I do not deſire the Crown ſhould be ſtraitened, but all we have given is not to be ſpent in three Months, and more Money for that which is given already, to ſet things on the wheels till we meet next. Let the Country breathe a little, I pray; though all the Money is not paid out of our Lands; yet the Farmers have paid their Polls. We are truſted by the People with their Eſtates, and their Lands; let leave be aſked, according to Order, for a Motion for Money, and not be brought in by ſurprize.

Sir *John Thompſon*.] I do not wonder that Gentlemen of the Treaſury move for Money. 'Tis an odd way this, to aſk Money for *Holland*, when the danger is in *Ireland*. Pray let us know what is in the Treaſury. In *Monmouth*'s Buſineſs, there was 400,000 *l*. given to ſuppreſs it, and the Money is ſcarce paid in to this Day—If you will have an account from Perſons in Office, how fit it is for your ſervice, pray conſider of it.

Sir

Sir *Chriſtopher Muſgrave.*] I will not take upon me to ſay how Money has been employed; of that I know not; but we are paſt Money, ſure, now. The whole Scheme of it has been before you. The Revenue has been paid, and that is conſiderable. You compute for the Navy but from *March*, and in Winter, when all comes in, then it is time to think farther of Money. I hope ſuch an Army, with the Militia we have, and the Fleet, may hinder all Invaſion, if we are ſo great in force; and we hear nothing of the *Holland* Fleet, nor our Alliance with them—There can be no occaſion for Money till winter.

Mr *Smith.*] We are told, in the Letters, of a Conſpiracy, and I wonder all ſhould be ſtrangely ended in Money. The Papiſts are all Conſpirators, and ill Proteſtants join with them. As has been moved, I would have the Papiſts ſeized, and I would addreſs the King for a Proclamation limiting a time for thoſe with King *James*: Recall them by a day limited; if they ſurrender not themſelves, ſeize their Eſtates. Let us know why orders to ſeize the Horſes and Arms of Papiſts have had counter-orders. If that was done, I doubt not but the King may appear at the Head of the Militia, as well as at the Head of a ſtanding Army.

Sir *William Williams.*] You have had it propoſed, by *Hampden*, "Advice and Aſſiſtance;" Advice what to lay before the King—'Tis no time to form a Law for the Militia; let us make uſe of it as it is; you ought to execute the Laws as they are, and let them form the Militia as well as they can; there are men enough in *England* to defend themſelves, and Money enough. If we muſt ſend abroad for men, we are in a miſerable condition. If there be men and Money enough, nothing remains but management. I have heard very little to-day but what I heard a week ago; there wants nothing but management. I would have a Committee of Lords and Commons to ſit in the interval of Parliament, to manage affairs.

Mr *Garroway.*] I never heard of ſuch a Propoſal as this is for Lords and Commons, *&c.* to take the Government out of the King's hand. We have heard little to-day but what we heard a week ago, and it weighs little with me. Let us know who returned the Horſes and Arms taken from the Papiſts—And now we talk of the Militia. I would

would addreſs the King to know who ordered theſe Horſes to be delivered back again to the Papiſts.

Col. *Birch.*] When I ſpeak for Money, I would lay the fault where it is. I will not talk of Account of Money now. 'Tis pity theſe brave Fellows in *Ireland* ſhould be deſerted; we are likely to loſe thoſe 10,000 brave men, to our ſhame all the World over. It is ſaid there is a boom croſs the River to *Londonderry* *; a new faſhioned thing! We are told by the Letters, "That about the time King *James* ſhould come to it, it would be delivered up." This I ſay, 'tis a ſad Caſe they ſhould be eaten up in the North, when, at the Narrow Sea, they may go over into *Ireland* twice a Day. I wonder, notwithſtanding this boom, we land no where elſe. Let them waft over, and cut this boom in pieces; there is no great force with King *James*. This may be done, and this is advice; and if with our men we cannot go aſhore near, in eighteen or nineteen miles going they may go aſhore; and if you do not land men, never think to regain *Ireland*.

Mr *Hampden.*] Gentlemen ſeem to be diſpleaſed that Perſons are not removed. As for myſelf, I would willingly reſign my place, but I would have ſuch Perſons named as Gentlemen would have removed. The City, upon theſe Letters (it may be) will ſeize the Papiſts and all ſuſpected Perſons that may diſturb the Government.

[An Addreſs was ordered to his Majeſty, deſiring that the moſt conſiderable Papiſts, with their Arms and Horſes, may be ſeized.]

Thurſday, June 20.

Debate on the Lords Amendments to the Bill of Succeſſion reſumed.

Serjeant *Wogan.*] I think the Lord Mayor and Nobility in Town ſhould be joined with the Lords of the Council to tender the Declaration and Subſcription. I think it not ſafe in the hands of the Lords of the Council of the laſt demiſed King only.

Mr *Foley.*] Here is a Power in the Bill veſted in the Privy-Council, to declare that the next Heir ſhall inherit, *&c.* the Crown. I would commit it.

* See p. 270. Note

Mr

Mr *Howe.*] I think, this Bill will not give ſatisfaction to the Nation; it excludes all Commoners from tendering this Declaration, if none but the Lord Mayor be admitted. If the laſt Houſe of Commons were to be ſummoned, it would content the People.

Sir *Thomas Clarges.*] To have the laſt Houſe of Commons ſent for, would have great inconvenience in it. The Cuſtom is, upon demiſe of the King, that the Nobility meet, and declare the Succeſſor, as it was done in the Caſe of Queen *Elizabeth.* I think it very well, for ſuch of the Nobility as are at hand, and the Lord Mayor, to declare, *&c.* and then that Commiſſioners be ſent to the King.

Sir *John Guiſe.*] I am not for the Lord Mayor to repreſent the Commons of *England.* I think this King came to the Crown as well and as rightfully as any of his Predeceſſors, and he did ſend for all the Lords and Commons to conſult them, and ſo you will approve what is done yourſelves. If not abſolutely neceſſary, I would not have Commiſſioners ſent to the King: I think the Crown of *England* is worth coming hither for. I would not put the Crown into the hands of a few.

Mr *Howe.*] I think it no great matter if the Clauſe were caſt out, rather than to have Commiſſioners to bring in what King they pleaſe.

Mr *Sacheverell.*] This is a matter of great Importance; here are more things than one, and this Clauſe will not do. In the ſame Clauſe they are kinged and unkinged again; and an intermiſſion of *Interregnum* during the time of ſwearing. I think it fit for a Committee.

Mr *Hampden*, ſen.] I am for committing the Clauſe, by reaſon I would make as few differences with the Lords as I can. This Bill I take as a confirmation of what we have done, when the Crown was preſented to the King and Queen. What would be the Conſequence, if the Lords ſhould not agree with you? (As I hear, the Bill for ſettling the Crown eſcaped narrowly, for a Clauſe in it was carried but by two votes) But this is *in majorem cautelam*, or confirmation of what you have done; it would weaken it all, and much hazard it; unleſs abſolutely neceſſary to differ, I would not, but pray commit the Clauſe.

Mr

Mr *Sacheverell.*] As to the other Amendment, ſhould you agree with the Lords in this, the Diſpenſing Power is confirmed, for the future. If thought neceſſary, there may be a Bill to diſpenſe in ſome Caſes, *&c.* but of thoſe but a few. If any can be ſo diſpenſed, it is not fit a Judge ſhould chuſe what Laws are fit to be executed, and what not. If you ſay in a Bill what Laws are fit to be diſpenſed, and what not, then it is for the ſafety of all *England.*

Mr *Garroway.*] If you agree with the Lords for what they have done already, and exclude the Judges, you cannot puniſh them. I would not agree.

Mr *Ettrick.*] You heard, the other day, that in *Hales*'s Caſe, the Judges did agree, "That the Law was the King's Law, and he might diſpenſe with it;" and ſeeing you can find no qualifying Clauſe in this, I ſee no other way but by Bill. In the mean time I would diſagree with the Lords.

The Speaker.] You cannot now amend your own Bill, but you may qualify the Lords Amendments.

Serjeant *Wogan.*] In the 28th of *Henry* VIII, the Lord Chief Juſtice, *&c.* were excepted from the Circuit in the Place of their Birth and Reſidence; and it is hard, on the other hand, that the King cannot diſpenſe in any Caſe. Perhaps the Sheriffs attend the King, or this Houſe, ſo that if the King could not diſpenſe with their reſidence, they would be in an ill Caſe; if the Star-Chamber were up, they might be fined. Sometimes a Jury may be head-ſtrong, and find it Murder in the Perſon whom he killed *ſe defendendo*; you will, by it, reſtrain the King from all Mercy, and eſpecially in the Caſe of Mercy, it is againſt the nature of all Government.

Sir *William Williams.*] I am for agreeing with the Lords. If that ſtands for Law, that the King can have no Power to diſpenſe in any Caſe that can happen, then perhaps you will find that the Subjects ſhall ſuffer more in this than in the Diſpenſing Power. Becauſe Pardons have been abuſed in Impeachments, ſhall the Crown have no Power to pardon? 'Tis as neceſſary for the People as eating and drinking. People will neceſſarily ſtand in need of Pardons. I would not clog this Bill for Limitation of the Crown

with this. It will be more natural in a Bill by itſelf. No man in the Houſe, nor in the World, but will think this neceſſary in a Bill. It will have free agitation in this Houſe, and before the Lords. I would agree with the Lords.

Sir *Thomas Clarges.*] 'Tis now ſix weeks ago ſince this Proviſo was tendered, and the Gentleman told you it was neceſſary in five or ſix Caſes. It ſeemed, at the Committee, the King had that Power, and, in all Debates, that that might have been done. For the King's Power of Pardoning there is no doubt; but I ſay, by the Law the King has no Power of Diſpenſing. He has none by Statute-Law, that we know, nor by Common-Law. In *Non obſtante's*, they ſay, why may not the King diſpenſe as well as the Pope? This is of vaſt conſequence, and, I believe, the Lords have adviſed with the Judges about it; but at a Conference, we ſhall ſhow, how convenient it is for the King to diſpenſe in caſe of a Miſnomer for Murder—The Judges are going the Circuits, and the Attorney-General may eaſily conſider of it, to part with this Clauſe, ſo diſmal to our Liberties; and, I hope, you will agree with the Lords.

Mr Attorney *Treby.*] I ſhall endeavour to rectify a miſtake; you are told, "the Bill was drawn by the King's Counſel." If you can ſhow ſuch an Order, I will draw a Bill *extempore.* If the Lords have made an Order for the Judges to inſpect the Bill, much more is it incumbent upon you. As for drawing the Impeachments, I can never do it till the Committee will meet; and as for the King's Power of Diſpenſing, it is ſaid, "He can neither do it by Common nor Statute-Law;" for Common-Law there is nothing above *Henry* III.—'Tis ſaid, though that be convenient, yet it was before—For Statute-Law it is plain, that by many [Kings] this Power has been executed, and without reproof of Parliament; I believe it. Judge *Hale* gave Judgment of Diſpenſation in the Caſe of *Thomas* and *Sorrel*; but if enquiry be made, and you find it founded originally upon no ſolid bottom, nothing but a Parliament can ſay, that is not a Law convenient to be uſed. A ſtone ill placed in a wall at firſt may be mended, but you would not undermine the Inheritance of Perſons. In *Hanſon*'s Caſe, a man was ſuppoſed to be

be murdered, and was not; therefore there was a reaſon why the King ſhould pardon him; and it muſt be taken for Law, becauſe a continuance of practice. You ſay, "The late King did uſe that Power of late, and diſpenſed in a Caſe not diſpenſible;" not to *John* and *Thomas*, but all the people at once. 'Tis ſaid, "That, if we do not ſomething in this, we acquit all the Judges of what they have done, and condemn ourſelves"—There is not one word of retroſpect in the Bill; but it ſays, "From the firſt of *June* no *Non obſtante*, but as formerly;" all the proceedings of the Judges are in the ſame ſtate as before. When reading will ſatisfy, I need not ſpeak; pray read the Clauſe.

Mr *Sacheverell.*] I hope *Treby* will juſtify me, that I attended the Committee. As to this other, I would know how came the Clauſe of *Non obſtante*, if the King could diſpenſe without it? For the time paſt, I am glad to put up with a great many Injuries done us, only to prevent for the future.

[The Clauſe was ordered to be committed.]

[*June* 21, Omitted.]

Saturday, June 22.

Debate on the *Iriſh* Miſcarriages.

Sir *Edward Seymour.*] I do not apprehend how 400 men can keep *England* ſafe, if thoſe who manage *Ireland* play faſt and looſe with you. 'Tis time to enquire after theſe Miſcarriages, and to repair to the Council-Books, for your information and ſatisfaction. If you do not what has not been done before, you will be what you were before. I was not for the abdicating Vote, but I am for preſerving the Government; and if you do not, you will abdicate all you have done.

Sir *Chriſtopher Muſgrave.*] If you appoint ſome to inſpect the Council-Books, unleſs they may have Copies, I know not what uſe you will make of them. You muſt take the whole matter, and Gentlemen will not undertake to ſay what is fit to report, and what not.

Mr *Howe.*] I ſecond the Motion. The hearts of the People are upon *Ireland*, and there is a fault ſomewhere. Some lay it on the Houſe of Commons, others ſome-

where elſe: For the ſatisfaction of all Perſons, I deſire the Committee may have Copies of the Books of all the Orders, *&c.* and the Tranſactions relating thereunto.

[Which was ordered]

Monday, June 24.

On the Impeachment of the Diſperſers of King *James*'s Declaration, [*viz.* Sir *Adam Blair*, Capt. *Vaughan*, Capt. *Mole*, Dr *Elliott*, and Dr *Grey*.]

Sir *Thomas Clarges*.] This is a Caſe of Blood, and I hope, if I am tender you will excuſe me. In 19 *Charles* II, there was a Committee appointed to conſider Lord *Clarendon*'s Impeachment. *November* 6, the Articles were brought in. The courſe then was, that a day was ſet to conſider, upon Debate of the Houſe, "Whether the Facts charged were, in the Judgment of the Houſe, Treaſon." *November* 9, the Conſideration of the firſt Head of the Fact of Treaſon took up from nine in the morning to five at night, "Whether Treaſon ſhould be aſſigned?" Then it was declared, "That there ſhould be no Impeachment, but on the Statute 25 *Edward* III." Then Lord *Vaughan* ſtood up, and would make good the ſixteenth Article; and ſaid, "I do accuſe Lord *Clarendon* of correſponding with the King's Enemies *." I obſerve that in this Parliament more Attainders have been reverſed than in any one Parliament, and the reaſon is, the great oppreſſion of *Weſtminſter-Hall*; and theſe are cautions for ſucceeding Parliaments to be careful; and I move for a day to conſider, whether this be Treaſon, or no.

[The Articles of Impeachment were read, *which ſee in the Journal*, and ordered to be engroſſed.]

On the Breach of Privilege upon the Earl of *Danby* *.

Sir *William Strickland*.] I would know how this Breach of Privilege came? I would not have this Lord affronted.

Earl of *Danby*.] Had I thought this a Breach of Privilege, I would have complained, nor was it of that kind.

* See Vol. I. p. 35.

† Eldeſt Son of the Marqueſs of *Carmarthen*, and called up to the Houſe of Lords a few months after, by the title of Lord *Kiveton*. Being brought up to the Sea Service, in 1702, he was appointed Vice-Admiral of the Red, and in 1712, he ſucceeded his father as Duke of *Leeds*. He died in 1729, and was grandfather to the preſent Duke.

You

You have ſo many weighty Affairs upon your Hands, that this is not worth your conſideration.

Mr *Smith.*] I ſtand up only to tell that noble Lord, that, if he will ſay he was not taken up by a Meſſenger, I am ſatisfied; if he was, it muſt be Breach of Privilege; but if there was no ſuch Warrant ſent, the noble Lord will tell you, and you may proceed to other Buſineſs.

Sir *Walter Yonge.*] I would have that Lord tell you plainly, whether he was taken into Cuſtody? If he will not, you muſt go another way. Common Fame ſays, a Meſſenger ſerved a Warrant upon him; and I deſire the Meſſenger may be ſent for in Cuſtody.

Mr *Smith.*] I am always for the Rights of my Country, and of this Houſe, and if he will not tell you, an honourable Perſon will tell you, that he ſaw the Warrant; and that is Sir *John Guiſe.* I would know of him, whether the Meſſenger had not a Warrant, ſigned, "*Nottingham,*" to take Lord *Danby* into Cuſtody?

Sir *Edward Seymour.*] I do not ſee any extraordinary method you need take in making enquiry into this matter. The Privilege of the Houſe is not to a Member only; it is to the Houſe. The higheſt Breach of Privilege is the Impriſonment of a Member. If that be not, I know not what is. Where are the Debates of this Houſe, if this ſhall be? Nobody can ſit here with ſafety. Have your Predeceſſors had ſo much caution in theſe Caſes, and will you be indifferent? Shall you ſuffer your Member to be taken out of a ſupreme Court into Cuſtody by a *Subpœna?* That the Speaker, a Privy Counſellor, ſhould know of an Order of Council, that breaks your Privilege to ſit in Council, and he not hinder it!—This is a catching age for Precedents, not only of making, but impoſing Precedents, when I conſider how you parted with the *Habeas Corpus* Act, when you ſit here obnoxious to a great man—Lord *Danby* ſays, "He does not know that his Privilege was broken;" but he can tell, if he will, all the matter. Put a Buoy upon the Anchor, that men may debate freely, and not have that a doubt when we are gone away.

The Speaker.] Complaint was made to the Council of a Ship ſeized at *Exeter*—Notice was taken that *Seymour*

was a Member, and there was no Order, but a Meſſenger gave notice.

Sir *Edward Seymour.*] I ſhall be tender of repreſenting a thing not as it is. I was ſerved with two Orders, and I ſaid, "I would not appear to the Summons of a leſſer Council, when I was a Member of a greater." I told the King, "I came in Obedience to his Commands, but not to the Order of Council, but Perſons that ſat in Council ſhould know I was a Member." The King ſaid, "He knew nothing of it." When I had the Honour to ſit in that Chair, and in Council, no Member can ſay that ever his Privilege was broken.

Sir *Henry Goodrick.*] If we muſt believe this Lord, *&c.* he tells you, "It was no Breach of Privilege;" but what if I, or any man, ſay, no Warrant was produced!—I heard him ſay, "A man came from Lord *Nottingham*, and deſired to ſpeak with him;" if this be made out, he has dealt candidly with you, and all mankind.

The Speaker.] We are gone off from the matter. Perſons of honour are ſhy, and think it hard in what concerns themſelves: They look upon it as a point of honour. If a Warrant was ordered, it was a Breach of Privilege. I cannot blame *Weſtminſter-Hall*, if theſe things be ſuffered when you are gone, if, when you are here, you may be ſerved as Lord *Danby* was. He tells you, "He took it not for a Breach of Privilege"—But that there was a Warrant, and ſerved, is another Breach of Privilege. But if this be a Breach of Privilege, it is proper to ſend for the Meſſenger.

Mr *Smith*] What I inſiſt upon is, that *Guiſe* may inform you what he knows of the Warrant.

Sir *John Guiſe.*] All I know is this: I was in the Gallery at *Whitehall* on *Saturday*, where I met the Meſſenger, *Evans* (whom I had the Honour to know, having been in his Cuſtody.) I told him, "He would be brought before the Houſe for ſeizing Lord *Danby.*" He replied, "He had his Juſtification in his Pocket;" and produced the Warrant for ſeizing Lord *Danby* for treaſonable Practices, ſigned "*Nottingham.*"

Sir *Edward Seymour.*] I hope Lord *Danby* will have a better opinion of me, than that I did reflect upon him.

Pray

Pray order the Meſſenger to attend you, ſeeing the noble Lord is tender in telling you.

Sir *Henry Goodrick.*] If it be Treaſon, your Member has no Privilege. I would not ſtifle the thing, but ſend for the Meſſenger.

Mr *Garroway.*] I would nip this in the Bud. The Clauſe in the laſt Act of *Habeas Corpus* excepts Members from being attached without acquainting the Houſe. I would not only ſend for the Meſſenger, but the Warrant.

[*Evans*, the Meſſenger, was ordered to attend the next day with the Warrant.]

On the Heads of Exceptions in the Bill of Indemnity.

On Mr Juſtice *Bedingfield*, &c.

Mr *Garroway.*] *Bedingfield* is dead, and it is ſaid of him that his Advice was extrajudicial. If once Judges ſhall be ſummoned to Court to give private Advice, there is an end of your Laws. You cannot diſable a dead man from office, but you may ſet a mark of diſpleaſure upon him, though he be dead.

Mr *Chriſty.*] If the King demands his Opinion, and he gives a dangerous Opinion, and no caſe drawn, it remains a doubt whether he was for the Diſpenſing Powers, or not.

Mr *Hawles.*] To what purpoſe ſhall we name a man that is dead? For except all Opinions, and Crimes may be more than in court. If there be a doubt in the caſe, he cannot anſwer for himſelf. I would have no Queſtion upon him.

The Speaker.] I muſt take notice that, in the laſt Vote, you excepted a dead perſon; Lord Chief Juſtice *Wright.*

Sir *Robert Rich.*] It is known how late he came into his place; he could not get much Money. He was the worſe for his place; his Eſtate is very ſmall, that deſcends to his Poſterity, and I would not except him.

Sir *Joſeph Tredenham.*] He is dead, and the Queſtion is, Whether the ſour grapes he has eaten have ſet his ſons teeth on edge? He was dead before you made the Reſolution, and I queſtion whether properly you can name him.

Mr *Smith.*] I believe, this Gentleman had a ſmall Eſtate, and ſo would the reſt have had, if honeſtly got. You will do the living juſtice in ſparing the dead.

Sir *Henry Goodrick.*] This man gave his Opinion at a private Conference. His Opinion was not a Judgment in public; let it be affirmed by any Gentleman, that he was ſo far from countenancing the Law as to take the Teſt. I would reſtrain it to this Point, and no more upon this Head.

Mr *Foley.*] All the Country know that the Judges gave the Diſpenſing Power in charge; but becauſe the Houſe is inclined to ſpare, put the Queſtion in general.

Mr *Hawles.*] Before you put a general Queſtion, think of another Perſon who told you, "He had his Defence in his Pocket." (Sir *Robert Sawyer.*)

Mr *Garroway.*] You have had a touch by *Hawles* of the Attorney-General. He can ſatisfy you poſitively, whether he had not Order to adviſe, and have the conſent of the Judges, to draw *Hales*'s Patent; if not, he is in the Caſe.

Mr *Hawles.*] In the Attainder of *Stafford* in *Henry* VII's time, the King ſent to have the Judges Opinion; but they would not give any Opinion but in Court, becauſe they might hear the matter argued by Counſel. This is the ſame thing; and thoſe out of Court are as criminal as the Court. I wiſh the Gentleman (*Sawyer*) had his writings here that he told you of, to inform you. 'Tis plain and down-right, that this was to ſuppreſs the Proteſtant Religion. The ſame Perſon that drew this Patent, gave the Patent to the Popiſh Bookſeller to print Popiſh Books, not to exceed five thouſand in a year, and in that Patent there are the ſame Clauſes as in *Hales*'s Caſe. If *Bedingfield* be exempted, I am contented, but I would not let the leſs guilty be exempted, and the more innocent go free.

Sir *Thomas Littleton.*] Four are a reaſonable number to except: I would not make too many deſperate. What are the Sollicitor and Attorney? They are but miniſterial; the Draught is ſent to them *in hæc verba*, and they do but ſign it; and where they are but barely miniſterial; I would leave them out.

Mr *Palmes.*] When you intended to except but a few, it was that you would make them capital. If you do not lay your hand upon thoſe alive, they may do the ſame thing again. Will you part with eight Judges in a breath?

Sir

Sir *Robert Cotton.*] We are upon the Judges, and I am ſurprized we ſhould fall from the Queſtion upon the Attorney-General, who was but miniſterial. He left his Place of Attorney-General about proſecuting the Biſhops. This will alarm many leſs criminal, and I am againſt it.

Sir *Thomas Lee.*] There is a collateral Queſtion on a Members, who ſeem to be juſtified or excuſed, becauſe he was but barely miniſterial. I would aſk one Queſtion for all, but I would not have it hereafter go for a rule, that a miniſterial Officer may do any thing (Indeed all are miniſterial.) But, ſuppoſe the Chancellor is ſo, who ſets the Seal to an illegal Patent—Families depending, it may raiſe many Enemies, which is not the end of the Indemnity, but to puniſh ſome, and bring others heartily to embrace the Government for the Grace they receive. Great Numbers of Incapacities are ſo many marks of Ignominy upon ſo many Families.

Sir *John Guiſe.*] Upon this Maxim of Policy, I cannot agree to employ thoſe I cannot truſt, or put them in a capacity to do more miſchief. What will all the People ruined by theſe men ſay to us? Pray what have they deſerved your favour for? For breaking all your Laws? I believe, you will not exclude one of that Number from juſtifying himſelf. Pray propoſe every man in particular, and not a general Queſtion.

Mr *Hampden*, jun.] I think you cannot take the Indemnity too far. It is our buſineſs to heal the Nation; ſo far as is conſiſtent with our ſafety, pardon all you can; only in one Caſe, you cannot pardon, and that is, not to bring Blood upon your Poſterity. But as for miniſterial Officers, they are all ſo. Poſterity is innocent, whoever is guilty, and put the general Queſtion.

[Mr *Samuel Johnſon*'s Judgment was this day reverſed, and he was recommended to the King for Preferment.]

Thurſday, June 25.

On the Warrant to ſeize the Earl of *Danby*, [delivered in by the Meſſenger.]

Sir *Joſeph Tredenham.*] Before you enquire of Lord *Nottingham* about this Warrant, you are to juſtify your own rights.

Sir

Sir *Thomas Clarges.*] 'Tis Treaſon, or Felony, that is out of the *Habeas Corpus*. This Warrant is "for ſuſpicion of Treaſon." It ought to be Treaſon, or Felony, upon Oath, and ſix of the Privy Counſellors hands to the Warrant. But upon Treaſon, or treaſonable Practices, you ought to have been acquainted with it, the Lord being your Member. I hope you will vindicate your own Rights.

On a Petition being preſented from the City of *London*, unſigned.

Sir *Robert Howard.*] I never heard of this Petition till now. To one thing I can ſpeak; certainly there is no queſtion of the Loyalty of the City of *London*, and their full adherence to the Government. They got a Common Hall, and went in entirely to the Change, and defended it with their Hands. You have had Petitions here without Names. You are told the Sheriffs are the proper Officers, *&c.* and that they will ſign it, and pray let them ſign it.

Sir *Thomas Clarges.*] I have known formerly ſtrange Petitions from the City of *London*. In 1641, to alter your Laws on ſeveral Heads till they took off our Heads; but the City is in much better temper. I know not, by what appears, whether the Petition be from the Body of the City, and I would not have it read.

Mr *Howe.*] I would keep out that filthy trimming trick, to diſoblige our Friends, and oblige our Enemies. I wonder we ſhould go back to 1641, and not remember three years ago. A great many Members have ſuffered in 1641, as much as *Clarges*, and I would not do any thing that may ſeem to diſoblige the City.

Col. *Birch.*] The time I have ſat here I never knew, when a Petition came from public Perſons, that ever it was ſigned; but as for the Motions to return the Petition back, for the City to call a Common Council to have it ſigned, I believe it is true, that the Country is in many places diſaffected to the Government; therefore I would not diſoblige them: That ſafety we ſit under, by God's bleſſing, is from them. There wants but one thing; if they could get us looſe from the City of *London*, their work is done, that are diſaffected. I would rather receive the Petition

tition in the uſual manner, but rather than not receive it, I would ſend it out to be ſigned.

[It was ſent out, and ſigned by the Sheriffs.]

Sir *Thomas Lee.*] When a Member brings a Petition to you from any body, he muſt open it, with his deſire to preſent it. The Perſon who petitions muſt come to the Bar, and own it.

Sir *William Williams.*] If your Member was the Meſſenger to receive the Paper only, it is no great matter; but if he preſent it in his place, the matter is, whether you will ſend it out to be ſigned, or receive it from the Member. If he will, let him move for them to come in. He has taken it out of their Hands; he ought to open and move it.

Sir *Chriſtopher Muſgrave.*] It was the Reſolution of the Houſe that this Petition ſhould be ſigned. I appeal to you, whether it be ſigned; they only tell you they are directed from the Common Council to preſent the Petition to you.

Sir *Robert Clayton.*] If that Gentleman did underſtand the Conſtitution of that Body, he would know that the Common Seal is never ſet, but only ſigned "*Wagſtaffe.*" You have the Petition from the Hands of the Sheriffs, as good Vouchers as you can have from that Court.

Sir *Patience Ward.*] The Practice of Courts makes the beſt Interpretation of things. The City is a great Body, and cannot ſign the Petition, but you have the Sheriffs who will ſign it. I do avow it, and ſo will other Members, if required.

Mr *Hawles.*] I underſtood, that, when you ſent it out to be ſigned by the Sheriffs, it ſhould be in no other manner than it is, "That they delivered it by command of the Common Hall." Perhaps they were told it would be a criminal matter to come with a multitude of Hands. I think it ought to be read.

Sir *Thomas Clarges.*] By the Rules of the Houſe, you ought not to read the Petition. Forms preſerve Eſſences, and they muſt be obſerved. Any Order of Court muſt be ſigned, and approved by the Court ſitting, and the Order regiſtered. But they ſay, "No, not that; but in a tumultuary way"—when it comes to be an Act of theirs, they will not do it. This is not ſuch a ſigning as the gravity

gravity of this Houſe expects. It does not ſhow that the Sheriffs and Common Serjeant approve it, and for theſe Reaſons I muſt give my Negative.

Sir *Thomas Lee.*] I hope reading the Petition depends upon the nature of the Petition, and not the form of delivering it. The uſe of ſigning the Petition is, that there be no ſcandalous matter in it, and that they do avow it, and are accountable to you for their diſcretion in the matter of it. I would read it.

Sir *William Williams.*] I do agree with *Lee*, if we could paſs to the matter without the form. If it have not that form requiſite, you never look into the matter. We are upon the outſide of the Petition, on the face of it; the matter you cannot look into. If it be univerſally true that a Petition ought to have Hands, or Seals, to it, you cannot receive it, and you have done wrong to ſo many Perſons and Corporations you have received Petitions from, without Hands, or Seals. Why do you require Hands to Petitions? 'Tis that the Petitioners may be anſwerable for the Contents. Thoſe ſay, "They have order from the Common Council to deliver it to you." You muſt have the Petition owned, not for form-ſake, but a neceſſary Rule. Suppoſe there is Treaſon in it, and no Perſon to anſwer for that Treaſon, that Libel. In the Name of the Speaker is in the Name of the Houſe; I know it by experience in my Proſecution. They are a Body without a Head, a Body without a Hand, when not ſigned. To read it without a Hand,—I am againſt it. Let it be ſigned as it is uſual. It is the ſanction of the Petition, and without a Hand to it, I ſhall never give my conſent for it to be read.

Mr *Boſcawen.*] I appeal to Gentlemen, in times paſt, whether a Petition from the City, ſigned by a public Officer, was not taken to be from the City? The Sheriffs and Common Serjeant (who is the proper Officer) who are Members of the Common Hall, are included as part of that Body. You muſt put it upon that Queſtion, and *valeat quantum valere poteſt.* If you refuſe that, you refuſe what was never done to the City.

Mr *Hampden*, ſen.] The only Queſtion now is, Whether they have ſo ſigned the Petition as to prepare you for reading

reading it; and they have not ſigned it as Petitioners, but avow it from the Common Hall. They were preſent at the framing the Petition, and when it was agreed. If Gentlemen have no mind to hear reaſon, (*Upon ſome noiſe made*) you may put the Queſtion preſently. What farther Confirmation would you have? Does it not anſwer the End of all ſigning Petitions? "But," ſays the Gentleman, "the Sheriffs, *&c.* will not ſign it as Petitioners, but as Miniſters of the Common Hall;" and, ſuppoſe the Caſe ſhould be that they do not conſent, you are obliged to receive it; it is no Fiction, no piece of Poetry, but authentic. If becauſe the Sheriffs do not agree to ſign it, and therefore you will not receive it, you put the Negative upon the Hall by the Sheriffs.

The Speaker.] They that are againſt receiving a Petition from the Commons ought to go out, becauſe it is their right to petition.

Sir *Chriſtopher Muſgrave.*] Till the Petition is opened, the Houſe is not poſſeſſed of the Matter, and thoſe for it ought to go out.

The Speaker.] I am ſatisfied in my Judgment that the No's ought to go out.

So they did; and the Petition was ordered to be read, [174 to 147.]

The Subſtance was to deſire, "That Diſſenters might bear Offices as well as others, taking the Sacrament their own way."

Wedneſday, June 26.

The Impeachment of Sir *Adam Blair*, &c. was read.

Sir *Thomas Clarges.*] This Impeachment being matter of Blood, I would have it debated, Whether the matter contained in it be Treaſon?. In Lord *Clarendon*'s Caſe, it was ſaid, there was never any Precedent from *Henry* IV; nor by the words of the Statute 25 *Edward* III, and I believe no Precedent ſince that Time—*Fitzharris* was impeached, and that was for conſpiring the death of the King. We are the Grand Inqueſt of *England*, and I hope I ſhall never be wanting in my duty. I would know, whether, if an Indictment be brought to a Grand Jury, the Queſtion

Queſtion ever was, " Agree, agree," *(ſome calling out ſo)* Enquire whether the Indictment be according to Law. I deſire ſo much ſatisfaction as a Jury would have. A Conſultation held, and no War levied, as in Lord *Ruſſel*'s Caſe, is no Treaſon. If the King's Counſel will declare it to be Treaſon, I ſhall agree; if not, I doubt it.

Mr *Howe.*] Though we have no power to make Treaſon, I hope we ſhall not have power to connive at it.

Sir *Thomas Clarges.*] This is an extraordinary thing for a Gentleman to ſay, " that when a man ſpeaks his mind here, he connives at Treaſon." Lord St *John*, in his Argument againſt Lord *Strafford*, ſays, " that Judgment cannot be exerciſed but by Bill."

Sir *Thomas Lee.*] I confeſs, that I have not read that Argument this long time, therefore I will not controvert it, but I never heard that a Parliament could not judge; but it is a Power to be kept ſolely in Parliament, leſt it ſhould be an Example to *Weſtminſter-Hall*; and therefore judged by Bill of Attainder. Before *Edward* III's time, Treaſon was dreſſed up as in the late Informations. If men act ſuch things, 'tis deſtructive to the whole, and this was put into the Statute of *Edward* III, by way of caution, like firing of a Beacon. You ſend not up the Impeachment till the Houſe dares venture their Credit upon making it good, and the Commons ought to be ſatisfied that the Evidence will hold out with the Lords as well as here; elſe the Evidence ſhould be puniſhed. It is a miſchievous Practice, when the Courts of Juſtice have been exorbitant, and would be ſafe in ſo doing. This Declaration that Sir *Adam Blair* has publiſhed, declares another King, and dethrones this. If this be a general Opinion, I think we ought not to carry up this Impeachment; if it be a Crime (which every body thinks) it ought to be carried up to the Lords, that it may be judged Treaſon.

Sir *Thomas Clarges.*] *Lee* was of Opinion, in Lord *Clarendon*'s Impeachment, " That there was no Common Law Treaſon;" upon Debate, that Impeachment was not carried up till it was clear, that the Article was Treaſon. Before the Statute 25 *Edward* III, Treaſon was ſo ubiquitary, that it was reaſon, to aſſert Treaſon, with the Proviſo relating to the Judges in doubtful Caſes, *&c.*

After

After that Act, Treaſon was bandied more than before. In *Richard* II's time, Sir *Thomas Hawkſley* was judged for making a Motion in Parliament, inſomuch that *Henry* IV was petitioned by the Lords and Commons, "That Treaſon might not be ſo hackneyed about;" and in Queen *Mary*'s time it was repealed. I dare put my Credit upon it, there has been no Judgment of Treaſon from *Henry* III's time; and Lord *Coke* is expreſs, in his Chapter of Treaſon, "That the Statute of *Edward* III was taken away by the Statute of Queen *Mary*." Lord Chief Juſtice *Vaughan* uſed this Argument, "That there was no Common Law Treaſon, no conſtructive Treaſon." Lord *Vaughan*, (now Lord *Carberry*,) brought in an Article in *Clarendon*'s Impeachment of his "correſponding with the King's Enemies, and betraying his ſecret Counſels*," which was ſpecial matter; and then the Article was voted Treaſon.

Sir *Thomas Lee*.] My friendſhip to Lord *Clarendon* induced me no farther, than that I was againſt the Addreſs for removal of him from the King; but I concurred with the Houſe, and went through every Vote to make Impeachments eaſy here. At that time the King was angry with *Clarendon*, and took the Seal from him, that he might go out of Town into the Country. The Duke of *York* did ſupport *Clarendon*, who at that time went to Church, and was reputed a Proteſtant; at the ſame time, all the Lawyers, raiſed by *Clarendon*, followed him, and a Gentleman then ſaid (*Waller*) "Touch a Lawyer, and all the Lawyers will ſqueak." *Vaughan* (who was quickly after made Chief Juſtice) argued as ſtrongly againſt the Impeachment, as he had done before for it, but told you he had changed his Opinion. There are two ways of delivering in an Impeachment; one at the Lords Bar, another at a Conference. The Impeachment of Lord *Mordaunt* was delivered at a Conference, by Mr *Seymour*. I leave the Houſe to conſider, whether you will deliver this Impeachment at a Conference.

Col. *Birch*.] I have ſat here long, and ſeen many things done. 'Tis uſual that the moſt able Lawyers go up with an Impeachment to inforce it. I ſee in my Eye a Perſon

* *See Vol.* I. *p.* 35.

of

of great worth, though aged (Serjeant *Maynard*) I would have him go up with it.

Serjeant *Maynard.*] Pray put not that upon me, who know nothing of the Buſineſs. Pray let *Birch* go, who knows the whole Buſineſs.

Col. *Birch.*] I never refuſed the Service of the Houſe. The Reaſon why I moved for Serjeant *Maynard* was, becauſe never any man did argue better in the Impeachment of Lord *Strafford.* Clipping a Shilling is Treaſon, and is not ſubverting the Government? I would have the Perſon to carry it up, who is the fitteſt to carry it on.

The Impeachment was ordered to be carried up to the Lords by Col. *Birch.*

[*June* 27, Omitted.]

Friday, June 28.

Sir *Thomas Clarges* reports, from the Earl of *Nottingham,* an account of the Warrant iſſued out againſt the Earl of *Danby,* viz. "That on *Friday* laſt, the Earl of *Nottingham* was informed, that Lord *Danby* had fitted out a ſmall Veſſel with Arms, with ſome deſign unknown to his Relations, and a Wherry to carry him away; that he had this Information from the Lord Preſident; that he had not time to put it in writing, nor was it given upon Oath, but he wrote it, upon memory, for his own Satisfaction. Upon Enquiry of the Reaſons, *&c.* from Lord *Danby,* he ſaid, "That the Veſſel was his own Yatcht that he had fitted it with the ſame Arms it had, and no more than before, to make uſe of for his diverſion; and that he had no deſign in the leaſt criminal." "This," Lord *Nottingham* ſaid, "he found ſo ingenuous an Anſwer, that, conſidering his Behaviour in the Change, in contributing to the preſent Eſtabliſhment, he releaſed my Lord without Bail, but with promiſe, upon his Word and Honour, to appear upon Summons."

Mr *Howe.*] I am willing to go on in the Act of Oblivion, but I am concerned that this proceeding ſticks not only on the People, but that their Repreſentatives may be in danger. But if, by intreaty, a man may be taken up in this manner, every mother's ſon may be taken up. I hope you will order the matter ſo, that you may juſtify your Proceedings.

Mr

Mr *Bickerſtaffe.*] This was in the Afternoon, and the Houſe not ſitting; upon complaint to the Preſident of the Council, he could not do leſs.

Sir *Robert Rich.*] I ſuppoſe that Gentleman was not here, when the Meſſenger gave an Account of it. He ſaid, "He had ſerved the Warrant, and whiſpered Lord *Danby* in the Ear."

Sir *John Thompſon.*] You may remember, *Evans*, the Meſſenger, acquainted the Houſe, "That Lord *Nottingham* granted the Warrant without Oath." I have nothing to ſay to Lord *Carmarthen*, but one Member is injured, and I know not how to juſtify the thing. If this Warrant was granted as a Privy-Counſellor, or a Juſtice of Peace, I know no Law for it; for if ſix Privy-Counſellors do it, and here is but one, it is worthy your Conſideration. If as a Juſtice of Peace, he cannot take up a man without Oath. If one Counſellor ſhall whiſper to another, and impriſon a man, I know not who can be ſafe. If we take up this now, at the rate Elections go at, and the Determination in Sir *Samuel Barnardiſton*'s Caſe, they may have a Parliament as they pleaſe. I know not but that it may be in the Power of one great man to make a Parliament. I hope the Houſe will be jealous of their right.

Sir *Robert Cotton.*] I take it, any Member of the Houſe may be arreſted for Treaſon, or Felony, without leave of the Houſe, but he cannot be detained without leave of the Houſe. But the Queſtion is then, Whether there was an Oath given? In this Caſe, I think it was neceſſary. I think the Power of the *Habeas Corpus* late Act lays that aſide. But whether one Privy-Counſellor, without ſix, can take up a man, without Oath, in matters of Felony, or Treaſon, that is the Queſtion.

Sir *Francis Blake.*] I ſhould be loth to go into *Northumberland* without this being decided; there would be no ſafety for me when I am at home.

Sir *John Guiſe.*] I am much concerned that this, by a general ſilence, ſhould be paſſed over. The Breach of Privilege ſeems plain; is it not a thing to be mended? If this be prejudicial, and made only a jeſt, to

paſs it thus over, if this be done to one, it may to another. Whether if you complain to the other Houſe, of this Breach of Privilege, it may not be prejudicial? I would paſs it over rather than give interruption to the great Buſineſs, but ſo that neither I nor any man elſe be taken up.

Mr *Garroway*.] I cannot ſee but that this is a Breach of Privilege. I would not drive it high, but declare my mind. What you will do in it is another thing, but I hope you will vote it a Breach of Privilege, though it be no Commitment, the only taking the Member up without Oath. I would go as ſoftly as we can, but I know not how to proceed upon Lord *Nottingham*, without coming to the Lords. I would vote it only a Breach of Privilege, and addreſs the King to take Order that the like be not done for the future.

Mr *Howe*.] I cannot agree to this Motion. Have we not declared our right? What are we the better? In two Months, this man may go round the Houſe, thus. I hope, as *Engliſhmen*, we ſhall not forget our rights; and any man that will do this is not fit to be employed in the Government.

Sir *Chriſtopher Muſgrave*.] I think this is a Breach of Privilege. I ſuppoſe it is not the intention of the Houſe (ſince the Act of *Habeas Corpus* requires ſix Privy-Counſellors to ſign the Warrant,) to approve it in one only. If that be not our Privilege, I know of none that we have. I would not have it go off, that he could warrant the thing. I think we ought to vote it a Breach of Privilege, and addreſs the King that nothing of this kind be done for the future.

Col. *Birch*.] If this had been done by a Perſon that had not very well underſtood Privilege of Parliament, I would be for it as propoſed; but the thing apparent in the Warrant is called "treaſonable Practices," and it was evident to him before he ſigned the Warrant. If there be any thing you do not ſee, pray let us feel it, if you will examine it to the bottom. I am not ſo much Lawyer as to diſtinguiſh "Treaſon," and "treaſonable Practices." See the Bottom of all, and then take your Reſolution.

Mr

Mr *Charles Montagu* *.] There is one thing I cannot ſolve. The Paper that Lord *Nottingham* gives in ſays, "The Information was given in on *Friday*,", and the Warrant bears date on *Thurſday*.

Sir *Thomas Clarges*.] That may be a miſtake. He ſaid, "The Warrant was for treaſonable Practices," which is bailable. For Treaſon and Felony plainly expreſſed, if an ordinary Juſtice of Peace may bail, this may be ſo too. Pray vote it a Breach of Privilege, and addreſs the King to ſignify your opinion of it, that it may not be ſo for the future.

Sir *Rowland Gwynn*.] I am willing you ſhould put the Queſtion, but if you ſay no more than is propoſed, I am againſt it. I think my Lord of *Nottingham*'s Anſwers are not fair. I know not what to make of it.

Serjeant *Maynard*.] As this caſe ſtands, a Member is impriſoned, and a Warrant is made to take him for treaſonable Practices; if we take notice of it, and let a Member ſit amongſt us ſo accuſed, we cannot well anſwer that. We are to vote it a Breach of Privilege, and then enquire what thoſe treaſonable Practices are. At this rate, we may all be impriſoned, and whipped to our lives end. Vote it a Breach of Privilege, and ſit not mute upon ſo plain a Breach.

Sir *Henry Goodrick*] I look upon this as an Invaſion of Privilege, and worthy your cogniſance. I hear it moved to refer it to the Committee of Privileges to enquire into it, but I think that not fit. From whom will you have

* A young man, Mr *Montagu*, a younger branch of the Earl of *Manchester*'s Family, began to make a great Figure in the Houſe of Commons. He was a Commiſſioner of the Treaſury, and ſoon after made Chancellor of the Exchequer. He had great Vivacity and Clearneſs both of Thought and Expreſſion: His Spirit was at firſt turned to Wit and Poetry, which he continued ſtill to encourage in others, when he applied himſelf to more important buſineſs. In the Parliament of 1700, that the moſt eminent man of the Whigs might not oppoſe them, they got him to be made a Baron by the Title of *Halifax*, which was ſunk by the Death of that Marqueſs without Iſſue Male. In 1701, (being then Auditor of the Exchequer) he was impeached by the Commons, but acquitted by the Lords. In 1707, he had a great ſhare in the Union, and having propoſed the Bill for ſettling the Succeſſion in the Houſe of *Hanover*, he was appointed by her Majeſty to carry over that Act to the Elector. He continued in the Queen's favour till the Change of the Miniſtry in 1710. On the King's Acceſſion he was appointed firſt Lord of the Treaſury, and ſoon after was created Earl of *Halifax*. He died (without Iſſue) in 1715, aged 54, and was Great Uncle to the preſent Earl. *Burnet*.

Informations? Will you ſend for Lords *Nottingham* and *Carmarthen?* I would have a good correſpondence with the Lords; the Peers will not come to you, and there will be a rupture; but if you will come up to the Motion, for your honour and eaſe, vote the Breach of Privilege, and then addreſs the King.

Mr *Garroway.*] I ſhall ſpeak to your Queſtion. It does not appear by that Anſwer, which Lord *Nottingham* gave, that there was ſufficient cauſe to take Lord *Danby* into Cuſtody, and therefore vote it illegal, and a Breach of Privilege.

Col. *Birch.*] I deſire to ſpeak a word to the Queſtion. I have told you that I thought this a ſtrange thing, and it was as ſtrangely done for a Perſon of his Underſtanding and Honour. To me it appears more; when Lord *Danby* to this Houſe is upon his Parole to appear when ſummoned, and we all know he is in Cuſtody by that; which makes me think, there is more in it than at the preſent appears.

Mr *Harbord.*] I would know what you aim at, that I may ſee whether you are like to have good ſucceſs. I take this Impriſonment of Lord *Danby* to be occaſioned by his Father. I would do as I would be done by. If a Child do againſt his Father's deſires, a Parent would prevent it. Here comes the Marqueſs of *Carmarthen* to Lord *Nottingham*, and tells him his Son will go to Sea, in a hoſtile manner, without a Commiſſion, and he is a Pirate by doing ſo, and muſt die for it. He applies to Lord *Nottingham*; but that is not a good way; he ſhould have applied to the Lords Commiſſioners of the Admiralty, and has not done as he ſhould. But it is a hard Caſe to lay the ſtreſs upon Lord *Nottingham*; and if I had a Son that had done as Lord *Danby*, I would have done ſo; and therefore, as *Garroway* propoſed, the Complaint againſt Lord *Danby* is not ſufficient to put him in Cuſtody. I have no obligation to Lord *Nottingham*: I ſpeak my mind, and I care not two-pence for thoſe who interrupt me, (*ſomething in Paſſion*) be they who they will. I have drawn my Sword for the King, and I care not for the cenſure of any man. I would leave Lord *Nottingham* out of the Queſtion.

Sir

Sir *John Thompſon.*] He that touches the Parliament, touches the vital part of the Nation. The fault is the greater; for the man is not fit to be Secretary that carries about him the Legiſlative Authority to commit in this manner. The Meſſenger had been clapped up, if he had not done it; it was the Secretary did it. Put the Queſtion thus, "That granting the Warrant without Notice, *&c.* was a Breach of Privilege, *&c.*"

Mr *Howe.*] I am ſatisfied of *Harbord*'s good Intentions; but if I had a Child, I would have a *French* Proteſtant to govern him, and not a Secretary of State. We are told of your Member's pirating, but what reaſon for his taking up, I know not; but pray right yourſelves, and put the Queſtion.

Sir *Joſeph Tredenham.*] I deſire, that my Son ſhould be tutored by an *Engliſhman*, and not by a *French* Proteſtant. I am entirely for the Queſtion propoſed. If it be a Breach, it ought to be ſo tender that hereafter it may not be a Precedent for the loſs of Privilege; for that reaſon, I would not paſs it over in ſilence; the conſequence may be fatal. I was with Lord *Nottingham*, but the Queſtion is, Whether his Anſwer was a ground to attach your Member? But there is a diſtinction between thoſe that have the Honour to ſit here, and a private Perſon; I ſee him no otherwiſe criminal for this Warrant, but as Lord *Danby* is a Member. But as for the kindneſs of the Father to his Son, the complaint ought to have been made unto you. Some Gentlemen are for a Committee to enquire into it, but if you are not at the bottom already, I would have a Committee. The preſent Buſineſs is to vindicate your own Privileges. Therefore I am for ſuch a Queſtion.

Sir *John Guiſe.*] I am ſorry we ſhould have Compariſons betwixt Father and Son, to our detriment. Something of Piracy was ſpoken under me, *&c.* but I hope that is but a conjecture. But if the Veſſel was armed, nobody knew who it was for, or who againſt. I would name the Perſon that granted the Warrant, and refer the reſt to a Committee.

Sir *Henry Goodrick.*] 'Tis certain that Lord *Danby* made his Application to the Duke of *Schomberg*, and the Office

of Ordnance, and had Ammunition and Proviſion to ſcour upon Privateers; 'tis a little Veſſel, and can fight or not fight as he will; the General gave directions for it, and he had Arms, *&c.* accordingly. I have not ſeen the Marqueſs, but his Mother was alarmed, and was not willing the whole ſtay of their Family ſhould run hazard with Privateers, under a pretence to ſcour about the River. But ſuch imminent hazard he was like to run of his life, that they were reſolved to take all means to ſtop him. I hope this will ſatisfy the Houſe, and not reſt upon him as any ſcandal. I aver this to be matter of fact, and I would only vote this to be a Breach of Privilege, without naming Lord *Nottingham*. Perhaps he was led by this inducement.

Sir *Chriſtopher Muſgrave*.] I think *Goodrick* ſpoke againſt the Addition of the Queſtion naming Lord *Nottingham*, becauſe it appears on your Journal the Warrant was entered there; and therefore no reaſon for the Addition, being now no occaſion. The thing is to aſſert your Privileges and Rights, and the Queſtion will run well without the Addition.

Sir *Robert Howard*.] The thing is very unhappy, and much miſtaken in the manner of proceeding; but natural Affections muſt not be uſed to try tricks with the Government. Natural Affection may be ſhowed, and ſtop there. Suppoſe Lord *Nottingham* ſhould tell you he did according to Law, is not that a ſufficient excuſe? Lord *Nottingham*, upon information of a Privy-Counſellor, granted the Warrant, but ſtill the fact is done, and you vote it a Breach of Privilege, and that is all.

Mr *Smith*.] *Howard* ſays, "It will juſtify Lord *Nottingham*, becauſe he had his Information from a Privy-Counſellor." I would be ſatisfied whether a Privy Counſellor muſt not give Information upon Oath, as well as another?

Sir *Walter Yonge*.] I am very indifferent whether you name Lord *Nottingham* in the Queſtion, but aſſert the Crime. There is no fault in the Meſſenger; he knew not of it; but I am ſure Lord *Nottingham* muſt know of it. Granting the Warrant is a thing that muſt not be paſſed by ſo haſtily. You will find few Meſſengers that will deny

ſuch

ſuch execution of a Warrant. Pray put it, "That the granting ſuch a Warrant is a Breach of Privilege."

The Speaker.] The Meſſenger undoubtedly breaks your Privilege, as well as the Bailiff that arreſts your Member.

Mr *Hawles.*] The Bailiff, and he that ſues out the Writ againſt a Member, are upon record, and if you only call upon the Perſon who does officiate, your Privilege will be quickly loſt. Whoever iſſues out the Warrant is more, or equally, guilty than he that executes it.

Col. *Birch.*] Let it appear on your Books that you judge prudently. See the Date of the Warrant.

Sir *Joſeph Tredenham.*] At the ſame time that Lord *Nottingham* received the Information, he made the Warrant, and put it in writing for his Memory. I never knew it a Breach of Privilege, if a Writ was never executed. In ſome Caſes, the Statute of Non-claim may be pleaded; if the Writ be not taken out in legal Time, it is excluded. If it be neceſſary, ſeveral Precedents may be produced, not to hinder a man from a juſt Debt. But Proſecution of a Writ will hinder a Member from his attendance; but if it be not ſerved, it is no Breach of Privilege, becauſe it does not hinder a Member's Attendance.

Reſolved, That the granting a Warrant to arreſt the Earl of *Danby*, a Member of this Houſe, and the taking him into Cuſtody by virtue of that Warrant, is a Breach of Privilege of this Houſe.

[The Black-Rod came to ſummon the Houſe to attend his Majeſty in the Houſe of Peers, where his Majeſty ſpoke as follows:]

"*My Lords and Gentlemen*,

"The time of the year being ſo far advanced, and there being ſeveral Acts yet to be paſſed for the ſafety and ſettlement of the Nation, I deſire you would expedite them as ſoon as you can, it being neceſſary there ſhould ſhortly be a Receſs, both that I may be at Liberty to purſue the Buſineſs of *Ireland* with all poſſible Vigour, and that the Members of both Houſes may repair to their ſeveral Counties, to ſecure the Peace, and to put the Militia into ſome better Poſture.

"I am very ſenſible of the Zeal and good Affection which you, *Gentlemen of the Houſe of Commons*, have ſhowed to the Public in giving thoſe Supplies you have done already; and I do not doubt, but, from the ſame Inducements, you will be ready to give more, as the occaſions require; which, I muſt let you know, will be ſooner than perhaps you may expect, becauſe the neceſſary expence of this year will much exceed the Sums you have provided

for it. And that you may make the truer Judgment in that matter, I am very willing you ſhould ſee how all the Moneys have been hitherto laid out: And to that end, I have commanded thoſe Accounts to be ſpeedily brought to you; by which you will ſee how very little of the Revenue has been applied to any other uſe than that of the Navy and the Land-Forces.

"I muſt remind you of making an effectual and timely Proviſion of the Money for the States of *Holland*; and I doubt not but you will take care to ſee a fitting Revenue ſettled for myſelf.

"*My Lords and Gentlemen*,

"I will add no more, but to recommend earneſtly to you to avoid all Occaſions of Diſpute or Delay, at a time that requires Union and Vigour in your Counſels, upon which the Preſervation of all that is dear to us doth ſo much, depend: And I do promiſe that nothing ſhall ever be wanting, on my part, which may contribute towards it."]

[Debate.]

Sir *Robert Howard*.] The King is pleaſed to leave the matter to us; and, in the firſt place, let us return thanks to the King, *&c.* and go into a Committee to conſider the Speech, Paragraph by Paragraph.

Sir *Thomas Clarges*.] We cannot be able, before the Receſs, to make a Judgment of the Arrears of the Money; by Winter we ſhall have time to make recompence for what falls ſhort. Till then we cannot compute what that will be. The Poll is contingent with the other Taxes; till then we are not able to give the King any Anſwer, and then we may make up what is deficient.

Mr *Howe*.] I think there is other Buſineſs upon our Hands, as well as the Indemnity. We are not yet off from Lord *Danby*'s Breach of Privilege: I would neither frighten the Meſſenger, nor any body elſe in the King's Service, but if you will paſs this over, I will ſay no more.

Col. *Birch*.] We all deſire a Receſs, and to me ſeem to do a quite contrary thing. The Bill of Oblivion has held us a Month, and, for ought I know, we may ſit till *Michaelmas*, and not do it. This is a fine thing to keep you from all Buſineſs. I would diſpatch all Bills relating to Money, and when you have the Account, you will be ſatisfied in a day or two. 'Tis true ſome things are contingent in the Poll-Money—I remind you that Money ſtands voted in the Houſe for the *Dutch*. Their Ships came heartily

heartily to our Aſſiſtance; therefore take the King's Speech into Conſideration on *Monday*.

Sir *John Thompſon*.] Let us do our Country Juſtice, and the *Dutch* Juſtice; they came for their own Preſervation, as well as ours, againſt the great preparation of the *French* King.

Sir *Chriſtopher Muſgrave*.] The *Dutch* have no great War upon their Hands now; but we know who has: We have the *French* and *Ireland*. We ſhall comply amply with the King, if we go upon what is before us; and to-morrow we may go upon the Exciſe. If we go on upon the Accounts, we ſhall have no hopes of a Receſs; therefore go to-morrow upon the Exciſe.

Mr *Howe*.] I am willing to go as ſoon as poſſible upon Money. I am ſenſible of the ſervice the *Dutch* have done; many an honourable Gentleman has done you great ſervice, and yet brings you no Bills of Account for it. I hope the King will give us ſatisfaction in the *Iriſh* Affairs, and ſave you the labour of particular Accounts. If the *Dutch* can fit out more Ships than they have already, they may do it in Money. Upon the whole, I am ready to give Money when it is requiſite; but you may ſee the Accounts mentioned.

Sir *Thomas Clarges*.] In our Aids to the King, we have not limited one thing nor another. We hoped that 200,000 *l*. had been paid off of what we had granted, to the *Dutch*, and the reſt ſupplied. I cannot ſee how more Money can be expended before we meet again; and in *February* next, is the laſt Payment of the Subſidy, and we may conſider betwixt this and then. Here in the Poll-Money, and the Revenue, altogether, are three Millions betwixt this and *February*—There is no abſolute need of falling upon the Revenue, to ſettle it; till the Book of Rates be perfected, we cannot ſettle the Revenue. Here is the Exciſe—And I know not how to put the Wheels faſter upon a run than they are.

[Thanks were voted to his Majeſty for his gracious Speech.]

[*June* 29, Omitted.]

Monday,

Monday, July 1.

On the Heads of Exceptions in the Bill of Indemnity.

The Proſecution of the Biſhops was moved to be another Head.

Sir *Leveſon Gower.*] I have ſpoken with ſeveral of the Biſhops about their Proſecution. They are better Chriſtians than to deſire any body ſhould be proſecuted upon their Account. I think therefore the Houſe may paſs upon ſome other Head.

On the Commiſſion for Eccleſiaſtical Cauſes.

Mr *Garroway.*] I think, if you proceed upon the Debate of this Head, that it will puzzle the Lawyers to make it capital. Though the High-Commiſſion Court is down by Act of Parliament, yet the King has a great Power in Eccleſiaſtical Affairs. As for Mr *Johnſon*, I would make him ſatisfaction for his Sufferings *; and then the Queſtion will be, Whether you will proceed any farther upon this Article?

Sir *Richard Temple.*] The Biſhops were proceeded againſt for addreſſing the King about the Declaration, that cut up all your Laws by the Roots. I take this occaſion to venture a Motion, to except ſome Perſons. If you go head, by Head, you will nominate ſo many, that you will alarm the whole Nation, and never be at an end, and be much entangled in the Buſineſs.

Col. *Auſten.*] I am for naming mighty Members, but you do not Juſtice to the Nation, nor is the cry of Blood anſwered, if you do not your Duty.

Mr *Hawles.*] I am for excepting few as to life ſuppoſe four or two. You know a dead man for one, one in the Priſon for another; ſome are at liberty, and the moſt guilty perſons eſcape. If the miniſterial Perſons be excepted, and eſcape, if that be ſo, do as you pleaſe, and except as few as you pleaſe.

Mr *Howe.*] I think what you are now doing is in conſideration of what has been done before, ſo as to ſecure

* Mr *Samuel Johnſon*, (who had been Chaplain to Lord *Ruſſel*) ſetting forth *An humble and hearty Addreſs to all the* Engliſh *Proteſtants in the Army*, &c. was proſecuted for it in the *King's-Bench*, and being convicted, was ſentenced to ſtand in the Pillory three times, and to be whipped from *Newgate* to *Tyburn*, which no Martyr ever did ſuffer with more fortitude than he. *Ralph.*

you

you for the future. Some have gone ſo far as to juſtify King *James* in what he has done; if you exempt thoſe, you arraign what you have done already. The firſt riſe and ſpring of the Bill of Excluſion was the Popiſh Plot, and for maintaining Popery you rejected him out of the Kingdom. Kings do no wrong, but if Miniſters do no wrong—Therefore for our own Juſtification, either yield that King *James* is wrongfully put out of his Kingdom;—if you proceed not againſt his Counſellors we muſt conclude either that we have done wrong, or that King *James* has done none at all.

Mr *Harbord.*] I am for catching the great Fiſhes; to catch little Rogues is not worth your while. I would not fall into this ſame misfortune by not making Examples. This Eccleſiaſtical Court was not managed by *Jenner*; he is a little fellow. But for a Secretary of State (Lord *Sunderland*) to renounce his God, and act in that Commiſſion, you had as good give up all as not to queſtion him. Mr *Johnſon*'s wounds ſmart upon us. If he eſcape thus, what ſecurity can we have? I am not for ſweeping all the Commiſſioners, but go on upon this Head, and make ſome Examples.

Mr *Arnold.*] I wonder that thoſe who ſerve for the Univerſity of *Oxford*, are no more concerned in this Commiſſion of *Magdalen College*.

Sir *William Williams.*] Conſider this Commiſſion in its Conſtitution. Nothing in itſelf, theſe ſeven or eight years, has been ſo pernicious, that Eccleſiaſtics ſhould be conſtituted, not only to ſuſpend this or that Biſhop, but to unbiſhop and unecclesiaſtic them! Things grow on by ſteps and degrees; when they found that the Biſhops and Temporal Peers came into the Commiſſion, they would be *felo de ſe.* 'Tis fit to make an Example of theſe Perſons, who have violated their own Function and their own Law. Make one Example of him, as you have done of the Judges.

Mr *Coningſby.*] This is lumping indeed. If we muſt lump, I would do it in mercy; do in this as in the other Heads. Here are but ten, and as you have exempted but two out of the former, pray exempt but two out of this.

Mr

Mr *Smith.*] None of theſe acted according to their Commiſſions, but ſet up a Law-making Power. This did ſubvert both Church and State; but to ſay, that ſome favoured the Proteſtants—but I would have it ſhowed, what Proteſtants, unleſs their private Friends, to excuſe them. I would favour as much as any man; ſome that have gone fartheſt, as thoſe in the firſt and ſecond Commiſſion, I would lay ſome Puniſhment on lightly, but remark thoſe that acted in the latter; I would not ſo much as exempt the Clerks. If I make Enemies of them, I care not. I am not for being an Enemy to my Country. I would put ſome mark upon them all.

Mr *Wynn.*] Will you except one (Lord *Rocheſter*) who gave up his White Staff, and would act no farther when he ſaw how things tended?

Mr *Howe.*] This Power was certainly unlawful. In thoſe who modeſtly withdrew from the Commiſſion, it ſhows Repentance. Thoſe who are dead, are paſt your Juſtice. If you pleaſe, let all their Names be read, and then diſtinguiſh them.

Major *Wildman.*] I muſt ſpeak againſt my own nature and diſpoſition now. It is natural to ſpare all, but of neceſſity we muſt vindicate our Country's Liberties. I have ſat here with aſtoniſhment, to hear excuſes for any that ſat in that Commiſſion. It was called "the Eccleſiaſtical Commiſſion," but it laid the Axe to the Root of all our Properties, Goods, and Land in *England.* In one Clauſe of the laſt Commiſſion they were more modeſt than in the firſt. It gave a Power to make all the Noblemen and Gentlemen in *England* dance attendance upon them, and Power to examine every man's conſcience concerning his whole life againſt God or Man; upon pain of Excommunication they muſt anſwer every queſtion, or elſe the Chancellor was ready to grant out the Writ *De excommunicato capiendo*; whatever the crime was, though againſt himſelf. This gave a Liberty to all Informers; they might give what Coſts and Damages they pleaſed. As the Commiſſion gave Power of all Perſons, ſo alſo of Colleges and Cathedrals, to diſpoſe of all the Lands in *England* of all Bodies Corporate at their diſcretion, however confirmed by Acts of Parliament. They had Power to cauſe Maſs to be

be ſaid in Churches; they might turn out all Incumbents, and take their Lands for Popiſh uſes. By this it is moſt apparent that King *James* broke the original Contract with the People, and violated all the Laws that were made to protect our Liberty and Property. They executed theſe Powers in part; they cauſed all Colleges to bring in their Statutes. In *Sidney College*, the Founders took eſpecial care, and did abhor the Errors of Popery, and to have free Elections in the College; they called for the Statute-Book, and razed thoſe out for ever, and, when they could not get Maſs to be ſaid in the College, they ſet it up in the Porter's Lodge, that at length it might come into the College. Never was there ſuch a thing done in the face of the Sun, to bring in Popery, and to diſcourage the Proteſtant Religion, giving Coſts and Damages, and all mens Eſtates at their Will. The Duke of *Norfolk* was not excepted; he had a Writ *De excommunicatio capiendo* iſſued againſt him, if he did not obey them, in an Order about his Lady. All was at their will. If you excuſe theſe men, except all the reſt without ceremony. Our Anceſtors, when they came to reform the Goverment in *Henry* VIII's time, made Examples of *Empſon* and *Dudley*, who cunningly got a Patent to puniſh men in a ſummary way, without Juries. *Empſon* and *Dudley* were attainted for Treaſon, for ſo the Record is entered in the Parliament-Bill. Their Decree was without any Remedy; by that curſed *Non obſtante* to the Laws of *England*, all was laid level before theſe Commiſſioners. As that proſecution of *Empſon* and *Dudley*, who were the Inſtrument of the ill Government, coſt them their lives, ſo ſevere was their puniſhment—But when Queen *Elizabeth* gave but a poor Patent for a place, and ſent it to the Judges to paſs it, they ſaid they durſt not; examples were freſh of thoſe who adviſed againſt the Laws, although the Queen commanded it too in perſon. They ſaw the Shipwreck, where our Anceſtors had ſet up Buoys, and it was avoided. You need look no farther to find their proceeding than into their own Books, how they unfunctioned the Clergy. I leave them to your Juſtice. All they have done has been proved before you.

Sir

Sir *John Guiſe.*] I ſhould not pretend to exaggerate this Commiſſion, but am of Opinion that there can be no degrees in it; but I obſerve one thing in it, that it principally ariſes from the Privy-Council, who firſt ordered it, and then executed it themſelves. I ſpeak plainly, I think it of ſo high a nature, that whoever does own ſuch a Commiſſion is never fit to ſerve the Nation in any public capacity. I know not their Names, but begin firſt with the Privy Counſellors, and their Actions; that if any be employed now, to take care they ſhall never be for the future.

Mr *Ettrick.*] Being named of this Commiſſion, and acting upon it, are very different. I am for making as many friends as we can; ſo many as you except, ſo many enemies you make to the Government. To take all who were named in the Commiſſion, you muſt take the Archbiſhop of *Canterbury**. Many that were not verſed in Law knew not the ſaving in taking away the High-Commiſſion Court. When they ſaw it gone, they could not apprehend the conſequence. Thoſe who acted upon the third, fourth, and fifth Commiſſion plainly acted againſt the Laws. You did take ſeveral Commiſſions, and read ſeveral Names in them; all of them did not act in it. I would not put blots upon perſons who have been and may be uſeful to you. Lord *Rocheſter* quitted the Staff purely becauſe he would not go on in the Popiſh Intereſt. It is plain that this lumping them takes him in. Therefore I would have them that acted in the Commiſſion, excepted by Name.

Major *Wildman.*] I did not, in any thing I ſaid, reflect on the Archbiſhop of *Canterbury*. I ſaid only, "He was named in the Commiſſion;" but he never ſat. Pray read the Commiſſion.

* *Sancroft* lay ſilent at *Lambeth*. He ſeemed zealous againſt Popery, in private diſcourſe, but he was of ſuch a timorous temper, and ſo ſet on the enriching his Nephew, that he ſhowed no ſort of courage. He would not go to this Court, when it was firſt opened, and declare againſt it, and give his reaſons why he could not ſit and act in it, judging it to be againſt Law: But he contented himſelf with not going to it. *Burnet.*

On

On Lord Chancellor *Jeffreys*.

Sir *William Williams*] No man deſerves to be excepted more than he; but will you begin with a dead Perſon?

He was excepted.

On the Earl of *Rocheſter*.

Sir *Thomas Mompeſſon*.] Pray put no Queſtion upon him; he was left out of three Commiſſions.

Sir *William Williams*.] If you ſave any man, this ought to be he. When your Privileges were arraigned, he ſtood to you; he is but in the firſt and ſecond Commiſſion; let him be left out.

Sir *Thomas Littleton*.] I find it the diſpoſition of the Houſe to paſs by this Lord. But put the Queſtion ſolemnly; not to paſs it off as if he were a great man, and had friends, and ſo left out.

Sir *John Guiſe*.] I ſhall be as gentle upon this noble Lord as any body. I cannot conſent to excuſe him, but put no Queſtion upon him.

Mr *Smith*.] I am ready to excuſe this Gentleman, if by Vote, but not to excuſe him by a Vote will ſeem to the World as if he was guilty of no Crime. I am ſatisfied he has deſerved great puniſhment if his merits had not atoned for him. He has ſerved the Nation well in the Biſhops caſe, and is a good Proteſtant.

Sir *Robert Howard*.] I have heard from the Biſhop of *London* the great tenderneſs this Lord ſhowed in his Caſe, and how he behaved himſelf in the public diſpute, managed by Dr *Jane* and Dr *Patrick*, with the *Jeſuits*. I would never put it to the Queſtion, but to have it marked as an ill thing to ſit in the Eccleſiaſtical Commiſſion, but to ſay it is no crime, that is a fault—I would have theſe things applied to his pardon, not to his juſtification; therefore I would put no Queſtion npon him.

Earl of *Ranelagh*.] There is nobody in the Houſe, but will ſay this was a crime in this Lord, *&c.* but whether he ſhall not be excepted out of the Indemnity for having ſat in the Eccleſiaſtical Commiſſion, ['tis the Queſtion,]

No Queſtion was put upon the Earl of *Rocheſter*.

The Earl of *Sunderland* was excepted by Vote.

On

On the Biſhop of *Durham* *.

Sir *Robert Howard.*] The Biſhop has gone through ſtitch with all the Commiſſioners. He underſtood little Law, and leſs Goſpel, but he was an eccleſiaſtical knowing man, who gave Counſel to the Lay Lords. He went through all the Commiſſions, and in the laſt Commiſſion of ſuch an exorbitant Nature, where every Man's Eſtate, Liberty, and Wife, were at their diſpoſal. I was a Truſtee for the Duke of *Norfolk*—In that Court he took great conſideration of the Dutcheſs. In that Court he gave her more than the Marriage Settlement. This Prelate ſtuck to this Commiſſion, from firſt to laſt, with equal Violence.

He was excepted.

On the Biſhop of *Rocheſter* †.

Sir *William Pulteney.*] It is known to moſt how this Biſhop behaved himſelf. He was intreated by the Biſhop of *London* to ſtay in the Commiſſion. He protected the Proteſtant Religion, and I cannot reckon him ſo highly criminal.

Mr *Arnold.*] I wonder that the Biſhop, when we conſider the worthy Book he writ, *the Hiſtory of the Plot*, ſhould find Advocates here.

Sir *Robert Cotton.*] He was a Friend to the Univerſity and the Vice-Chancellor. He argued the injuſtice and unreaſonableneſs of the Proceedings of the Commiſſioners. He oppoſed every thing in the Proceedings againſt *Magdalen-College.*

Mr *Baldwin.*] There is this farther to be ſaid, that he deſerted the Eccleſiaſtical Commiſſion wholly, when they proceeded againſt *Magdalen-College*, and wrote a Book againſt it.

* *Nathaniel* Lord *Crew.* He was lifted up with the Eccleſiaſtical Commiſſion, and ſaid, "Now his name would be recorded in Hiſtory." And, when ſome of his Friends repreſented to him the Danger of acting in a Court ſo illegally conſtituted, he ſaid, "He could not live, if he ſhould loſe the King's gracious ſmiles." So low and fawning was he. At the Revolution he abſconded for ſome time, and was waiting for a Ship to get beyond ſea, fearing public Affronts, and had offered to reſign his Biſhoprick, but was prevailed on to go to the Houſe, and by voting the new Settlement to merit at leaſt a pardon for all that he had done. *Burnet.*

† Dr *Sprat*, juſtly eſteemed a great Maſter of our Language, and one of our correcteſt writers. He died in 1713. *Burnet.*

Mr

Mr *Dolben.*] He acted with great Zeal for the Proteſtant Religion. He never gave his conſent to one Vote or Decree of that Commiſſion againſt the Proteſtant Religion. He made it his Buſineſs to defend it. Except acting in that Commiſſion, he is guilty of no fault.

On Lord Chief Juſtice *Herbert.*

Mr *Howe.*] You have excepted him once; he is put into the Bill of Attainder. I would not worry a man that is gone out of the Kingdom.

Mr *Smith.*] You cannot vindicate the Juſtice of the Nation, if you take no notice of him, when three witneſſes have ſworn, that he is in *Ireland*, and he is put into the Bill of Attainder.

Mr *Howe.*] Something is to be ſaid in his behalf. He left his place, becauſe he would not give his Judgment againſt the Deſerters.

Lord Chief Juſtice *Herbert* was not excepted.

On the ſecond Eccleſiaſtical Commiſſion.

On the Earl of *Mulgrave* *.

Mr *Howe.*] Nobody can think I can have had long acquaintance with this Lord, but I have been well informed that all his life he has voted for his Country's Intereſt, though he was in Court. He came in to the Government in the late Change, and did this King ſervice. Let him paſs.

Mr *Smith.*] His name is in the laſt Commiſſion, and I know thoſe Injuries you have heard have been from thoſe Commiſſioners. If it appears that he was in the Buſineſs of *Magdalen-College*, I am not for excuſing him. Let his Quality be ever ſo great, if the Country be concerned, I would not except him. Let any Gentleman tell what he

* Lord Chamberlain to King *James*, and afterwards Duke of *Buckingham*. He was apt to comply in every thing that he thought might be acceptable; for he went with the King to Maſs, and kneeled at it. And being looked on as indifferent to all Religions, the Prieſts made an attack on him. He heard them gravely arguing for Tranſubſtantiation. He told them, "He was willing to receive Inſtruction: He had taken much pains to bring himſelf to believe in God, who made the World and all men in it: But it muſt not be an ordinary force of Argument that could make him believe that man was quits with God, and made God again." *Burnet.*

has done for the good of the Nation, and I am for excuſing him.

Col. *Auſten.*] I ſtand not up to excuſe him; but from a great Clergyman I have had it, that he ſtood for the Proteſtant Religion.

Sir *William Williams.*] If any Member can ſay he was more active than ſome you have excuſed, I would not paſs him by. You find nothing in the Books of this man's Actions. I would paſs him by.

Sir *John Guiſe.*] I have heard of good things he has done; he ſtood for us in the Houſe of Lords for the good of the Nation.

Mr *Howe.*] This Lord is not charged for acting, but for taking the Commiſſion. He may pretend to as much favour as another.

He was not excepted.

On the Earl of *Huntingdon* *.

Mr *Carter.*] I hope this Lord will not appear to be the greateſt Offender. He came in to act in this Commiſſion when the Lawyers and Biſhops thought it ſafe to act. He was well aſſured before he acted, and adviſed with ſeveral Lawyers, who gave him Encouragement to proceed. (*He was called upon to name thoſe Lawyers*) He diſſented in divers things that they acted againſt the Church; and before the Biſhop of *Rocheſter* came in, he diſſented. I move, That he may not be excepted in the Bill.

Mr *Harbord.*] I could tell a Story of this Lord, how that three days after the Prince of *Orange* landed at *Torbay*, he went poſt to *Plymouth*, to take Poſſeſſion of it, to keep the Prince out with his Regiment, which was then quartered there.

Mr *Smith.*] It is ſtrange to ſee how prettily we are turned off from what was propoſed. Becauſe this Lord was in the laſt, and not in the firſt Commiſſion, therefore now ſome would excuſe him.

Sir *John Guiſe.*] I am for the ſeries of the Inclinations of men. This Lord was once a great Patriot. He acted in the three laſt Eccleſiaſtical Commiſſions. He did go

* One of King *James*'s Privy-Council, and Colonel of a Regiment. He died in 1701.

through

through *Devonſhire* to raiſe the Country againſt this King, and has done no ſervice ſince: Surely you will not exempt him for that.

Mr *Smith.*] If one Gentleman will name his Biſhops that adviſed this Lord, *Carter* can name the Lawyers.

The Earl of *Huntingdon*, and the Biſhop of *Cheſter* *; were excepted.

On Sir *Thomas Jenner.*

Mr *Smith.*] I know not if Ignorance and Poverty may be an exemption from Puniſhment; if it be an excuſe for this man, he may claim it.

Sir *Jonathan Jennings.*] He was ſo troubleſome in the Eccleſiaſtical Commiſſion at *Magdalen-College*, that the Biſhop of *Cheſter* and the Judges thought to put him out. He was excepted.

The Compiler went out of Town ſome days before the end of this Seſſion †, [which was on *Auguſt* 20, when both Houſes, by his Majeſty's pleaſure, adjourned themſelves to *September* 20,] and from thence to

Saturday, October 19.

When the King, in his Speech, which was read by the Speaker, (after thanking them "for the Teſtimonies of their Affection as well as Confidence in him, at their laſt meeting)" eſteemed it (he ſaid) "one of the greateſt Misfortunes that could befall him, to be forced, in the beginning of his Reign, to aſk ſuch large Supplies: Though he had this Satisfaction, that they were deſired for no other Purpoſes, but the carrying on thoſe Wars into which he entered with their Advice, and Aſſurance of their Aſſiſtance; and wherein he

* Dr *Cartwright*. He was a man of good Capacity, and had made ſome Progreſs in Learning. He was ambitious and ſervile, cruel and boiſterous: And, by the great Liberties he allowed himſelf, he fell under much ſcandal of the worſt ſort. He had ſet himſelf, long to raiſe the King's Authority above Law; "which (he ſaid) was only a method of Government to which Kings might ſubmit as they pleaſed; but their Authority was from God, abſolute and ſuperior to Law, which they might exert as often as they found it neceſſary for the ends of Government." So he was looked on as a man that would more effectually advance the deſign of Popery, than if he ſhould turn over to it: And indeed, bad as he was, he never made that ſtep, even in the moſt deſperate ſtate of his affairs. He, *Wright*, and *Jenner*, were the three Eccleſiaſtical Commiſſioners for viſiting *Magdalen College*, and he (in particular) acted in ſo rough a manner, that it ſhowed he was reſolved to ſacrifice all things to the King's Pleaſure. *Burnet.*

† It appears from the Journal, that Mr *Anchitell Grey* had leave from the Houſe, the next day *July* 2, to go into the Country for a Month.

did not engage out of a vain Ambition, but from the Neceſſity of oppoſing thoſe who had ſo viſibly diſcovered their deſigns of deſtroying their Religion and Liberties. That which he aſked was, That what they thought fit to give towards the Charges of the War, for the next year, might be done without delay: As, the next Month, there was appointed at the *Hague* a general Meeting of the Miniſters of all the Princes and States concerned in the War againſt *France*, in order to concert the Meaſures for the next Campaign: And, till he knew their Intentions, he ſhould not only be uncertain himſelf what Reſolutions to take; but their Allies would be under the ſame doubts; and he ſhould be expoſed to the ſame Inconveniences the next year, which were the cauſe that the Preparations for this were neither ſo effectual, nor expeditious, as was neceſſary: That the Charge would alſo be conſiderably leſſened, by giving time to provide things in their proper Seaſon, and without Confuſion. And that they might be ſatisfied how the Money already given had been laid out, he had directed the Accounts to be laid before them." He concluded with "recommending to them the diſpatch of a Bill of Indemnity *."

[After this, the Sheriffs of *London*, being called in, invited the Houſe, in the Name of the Lord Mayor and Citizens of *London*, to dine with them on the 29th inſtant, the Lord Mayor's Day; which the Houſe accepted, and gave them thanks for. And on

Monday, October 21.

His Majeſty, (by the Lord Chief Baron *Atkins*, Speaker of the Houſe of Lords *,) prorogued the Parliament till

Wedneſday, October 23.

When his Majeſty, in the Houſe of Lords, ſpoke to this Effect; "That, having ſpoken ſo lately to them, he need not ſay any thing now; matters not having been altered ſince that time: And therefore referred to what he ſaid laſt to both Houſes, and deſired that ſpeedy Reſolutions might be taken."]

The Compiler was abſent till

Saturday, November 2.

When the Houſe reſolved into a Grand Committee on the Supply. Mr *Hampden* in the Chair.

[On the State of the War.]

Sir *Thomas Clarges*.] The Forces now in pay are 70,000 Horſe, Foot, *&c.* I think the Nation cannot keep them. When we were at War with the two great Powers of the World,

* It is remarkable that this Speech, which met with much Applauſe, was compoſed by the King himſelf, who the Day before produced it to the Council written with his own hand in *French*.

† The Marqueſs of *Halifax* had deſired to be excuſed from this Office.

Holland

Holland and *France*, the Eſtabliſhment was much ſhort of that. Now the King is graciouſly pleaſed to come in to us to relieve us from Civil and Military Oppreſſions, I hope we ſhall be in that way and order as to have no extraordinary Forces. Though we are in a State of War, we need not above 25,000 men. Our conditions with *Holland* are upon the foot of the Treaty of *Charles* II, of mutual Alliance and Defence. If either party be attacked, we are to deal by mediation; and if we cannot compoſe, we are to aſſiſt with 8000 men, and are to come into the War in three Months. I think we ought not to continue the 8000 men—I know, none of the Allies are obliged to beat King *James* out of *Ireland*; we are to ſupport that. I do not think it for us to take more upon us than we neceſſarily are obliged to. I think, 40,000 men may be taken out of this Eſtabliſhment; I am ſure a leſs number conquered *Ireland* in 1650. I profeſs, I am much in the dark, till I hear ſome propoſition from the King of the State of the War for the next Year, and till we know the Obligation of Alliances. The *Dutch* Forces are given in 14,000. They are not all in *Ireland*, ſome are in *Scotland*. They are upon parole to keep up ſeventy in a Company, *&c.* and perhaps they are but thirty-two in a Company, and in a year they will be filled up; ſo that we have a chimerical Army. Let the Muſter-maſter acquaint you farther.

The Earl of Ranelagh *gives an Account of the Eſtabliſhment, and rectifies* Clarges's *miſtakes.*

Mr *Garroway.*] I ſee no certainty of the number of men in *England*, *Scotland*, and *Ireland*. I think the Account that has been transferred to you comes from the Muſter-maſter, and the King is abuſed. I would go on regularly to the State of the War, what the King thinks fitting, and they to bring in where the men are; without the certain number of men, you know not how to provide. I think it fitter to apply to the Fleet, and retrench the Land-men. *England* knows no need of them. I believe the Money is not all ſpent. I think it may be embezzled. I never ſaw a worſe Account—If we do not preſently give Money, I would have ſome Vote to give Credit to the War. I would have the true State of the number of men; it is no matter whoſe Regiments they

a re. I would have Accounts brought here by ſomebody that will allow them, but I deſire not to go blind-fold. Let the Money be rightly applied, and I will go with the higheſt, and I deſire the King to give us the State of the War.

Sir *Edward Seymour*.] I ſpeak to method, which is carried on with great uncertainty. Some may ſeem abuſes of the Muſter, and that is no part of your Order. It is "to conſider the State of the War," and it is more pertinent, to conſider the Numbers neceſſary to carry on the War the next year. If Gentlemen think *England* in a condition to carry on the War for themſelves, and the Confederates, I am afraid they are miſtaken. I believe, all Concurrence is little enough for what is neceſſary to carry on the War. I think you had good ſervice from *Clarges*, who propoſed retrenchments of the *Dutch* Forces: I am ſorry that *Engliſhmen* are not fit for *Engliſh* Intereſt. If, for fear of an Enemy within you, you muſt have an Army, you will never be without one. I am ſorry the Intereſt of *England* is ſaid to be ſafer in foreign Hands, than *Engliſh*. If, by the Treaty, you are to provide for *Holland* 10,000 men, you are no farther obliged than till you come into the War; then that is a charge extraordinary. You that are come in at the laſt part of the day as Aſſiſtants, now are made Principals; and [they will] leave you out when it is their Intereſt—Upon another Debate to talk of ſuppreſſing Popery, and your Allies leave you—If you ſtick there, we muſt either ſuppreſs them, or they us. There are 7000 *Danes* deſigned for *Ireland*; a great ſum is gone for them. I will not repeat the ſcarcity of Money; but how many *Iriſh* Gentlemen muſt fight for their own, and yet we ſend for foreign Forces, and give all we are worth for *Ireland*, and know not whether we ſhall be maſters of it. I do think, that, as to the 8000 to be ſent to *Holland*, you are not obliged to it. The *Dutch* Army is unneceſſary, and I hope you will think of it.

Sir *Thomas Lee*.] I am of *Seymour*'s Opinion, to begin with *Ireland* but, as for the *Danes*, I think there is a great deal of difference in the Charge betwixt them and *Iriſh* Gentlemen, who will not ſerve for common Soldiers, as the *Danes*. I hope we ſhall keep *Ireland*, when we have got it; let us get it firſt. As for the 8000 men we are to

ſupply

ſupply *Holland*, at the ſame time thoſe are withdrawn, they may withdraw their Fleet.

Sir *Thomas Clarges.*] We are now poſſeſſed of the whole Province of *Ulſter*, where, by computation, are three Papiſts to one Proteſtant, and in *Munſter* more Proteſtants, and I am well informed that a great body may be raiſed there, who will fight *pro aris et focis*. The beſt inducement to have the *Danes* is, that they ſhould not go to the *French*.

Sir *Robert Howard.*] By this Debate, we ſhall find, that making too melancholy a proſpect is to the advantage of our Enemies, but may be, upon ſerious Conſideration, for our uſe. Should you, out of good huſbandry, ſtrike off 10,000 men from *Ireland*, I believe you will give great ſatisfaction to King *James*. Seeing you ſhrink in that, you may increaſe the *French* King's Reſolution in ſupplying him. King *James*'s Army in *Ireland* is ſuppoſed 20,000 Horſe, and 30,000 Foot. The loſs of 10,000 of ours there may have ſtrange Effects.

Mr *Garroway.*] I am ſtill of the ſame Opinion that this is the worſt Account I ever ſaw in my life. When King *James* went away, he left 30,000 men, and we had 10,000 out of *Holland*. The *Engliſh* Arms are all loſt; and now effective, rank and file, you have not 20,000 of theſe men left.

Sir *Thomas Clarges.*] I am not of capacity to ſay how many men may ſerve for *Ireland*, but I would have his Majeſty moved to declare the Numbers for next year.

Major *Wildman.*] I would remove a miſtake; we talk not here for the King, but for the Kingdom. I have heard a Doctrine preached here, "Take care we be not Principals in the War againſt *France*;" but againſt King *James* we are Principals in that War to defend us from Popery and Slavery. It has been the Doctrine of this Houſe many years, that *France* is in the Bottom of all Slavery, and that was to be brought upon us. We are in a worſe condition than the Confederates, and have need of all the Confederates againſt King *James* and *France*. The *French* King would have made conditions with *Holland*, and offered Money to divide *Holland* from us, with all offers of Trade, if they would have left us in the lurch, and not aſſiſted the Prince of *Orange*; and they may ſtill make Peace—I believe nobody here is inclined to treat with King *James*. We muſt

have War upon us, and if we are wanting to ourſelves, and give the leaſt diſcouragement to the Confederates, they may leave us to ourſelves to ſtruggle with *France* and King *James*. It has been by the Treachery of late Princes that we have been brought to truckle under *France*, which has brought him to be able to oppoſe the greateſt Powers by Sea, the *Engliſh* and the *Dutch*. I remember the time when the *French* durſt not build a Ship without giving an account of it. I move that you would ſupply the King with what Forces are neceſſary for *Ireland*, and what may wholly ſuppreſs *Ireland*.

Mr *Garroway*.] I do not agree with him for ſo great a Supply. I do not think to lay a foundation for ſuch a War as that the King of *France* ſhould not build a Ship without our Knowlege. I believe, if it were not that the Crown of *Spain* would be in diſpute, you never would have had the Company of the Confederates, and the Emperor would make Peace. I do believe that we cannot ſupport the War above a year longer. Therefore ſay you will grant a Supply to carry on the War, and I am for it; but "that the *French* King has 40 or 50,000 men in *Germany*," I have heard it, but I believe nobody ever ſaw it. That the *French* King ſhould have 200,000 men, and ſuffer *Bonn* and *Mentz* to be taken!—And poſſibly, if he had chopped 10,000 men into *Mentz*, they had done him more ſervice than all he could do. I am free to make a proviſion for a good force. I care not what it coſts us, but I would not be cozened.

Col. *Birch*.] It is not known to me, whether we are to have 30 or 40,000 men; that will be in due time. You may preſerve *Ireland* and yourſelves, if God Almighty does not take away your underſtandings; therefore I move, "That 40,000 men may be for the next year's eſtabliſhment in *Ireland*."

Sir *John Guiſe*.] You have been told of the former reducing of *Ireland*. The Forfeitures were taken of Papiſts Eſtates, and at three years value raiſed 320,000*l*. I move that you will conſider ſome ſuch way now.

Sir *John Trevor*.] The Queſtion is, Whether you will conſider the numbers of men, or a lump of Money for *Ireland*? I am for men, and if you appropriate not the Money,

ney, it may be applied either to the Navy, or the *Dutch*, and not for *Ireland*, and neither done at laſt. I do not underſtand that what is ſent to you is an Anſwer to your Addreſs. If you compute for 36,000 men, I would venture to give for 50,000. I am ſure it is more proper for the King. We are not a Council of War, but Repreſentatives of the People, to aſſiſt him. We are but to ſupply, according to the numbers of men; the King cannot elſe carry on the War vigorouſly. If you make not an end of the War this year, I know not how we can ſupply it another. I move "that the King may ſend us the State of the War."

Sir *Henry Capel.*] Several of the Council attended the King about the Admiralty and the Army, and the State of both is delivered to the Houſe, as approved of by the King.

Sir *John Trevor.*] *Capel* goes a great way, but thoſe who gave in that State of War to the King, underſtand War no more than himſelf.

Sir *George Treby.*] There is a neceſſity that *Ireland* ſhould be reduced: I have no ſhare of it when it is reduced, but I would have it reduced. I am not ſo vain as to ſay that *France* ſhould be reduced, but I would ſuppreſs ſo great a Neighbour. Our conſideration is for carrying on the War, but moſt diſcourſes ſeem to depart from that rather than to purſue it. But I hear ſpoken of, our being delivered from a ſtanding Army; we had a ſtanding Army, but were delivered from it by the Duke of *Albemarle* [General *Monk*] But there is an abſolute neceſſity of an Army, unleſs you would be annoyed at home, when you are defending your outworks. I hope thoſe who are not for ſupporting the Government, will be reckoned amongſt *French* and *Iriſh*. 'Tis ſaid, "There are Miſmanagements in the Accounts;" to which no man is a greater Enemy than myſelf. I have ſeen the time, when thoſe who cheated the King were thought the beſt men. The Money we are to pay now is our Redemption-Money; for what we paid to beat our Enemies formerly, was ſpent upon diſſolute perſons at Court. I agree if we look to the Well-management of the Money, it gives double; and notwithſtanding it is ſo good, it muſt be taken in its proper time, and not hinder what is for immediate ſafety—It has been ſaid,

"That

"That the Emperor is not obliged to reduce *Ireland*;" but if he oppoſes *France*, he helps to reduce *Ireland*. There is a Meeting of the Confederates at the *Hague* the next Month *, and when the King knows your Intentions, he will take his Meaſures accordingly; and till you declare how you will aſſiſt him, it is not poſſible for him to take his Meaſures. It is ſaid, "We have Foreigners in the Nation, and that the Natives might be ſufficient to preſerve you;" but though Prorogation annulls "Votes" of Parliament, yet not "Acts." You have deſired their Aſſiſtance, and given them Money. *Denmark* might have had better Terms from *France*; you will not entertain him, and he caſts himſelf into the *French* King's Arms. We look upon them (as in great part) naturalized to our Intereſt. We were grieved with Popery; where was the Back? It was *France* gave the Back to that Edge, but inſtead of an "actual War," that we had given Money for, it proved an actual Peace, and we were chouſed of it. *France* heretofore was but an inland Province, and now is great at Sea—'Tis well to provide that all Malefactors be puniſhed, that we may live well, but we muſt live before. What is wanting to this State of War? You would have ſome Eſtimate of the War; you have called for Accounts, for this Day's Work, and contented yourſelves with all materials requiſite, and believed you would accept this given as a State of the War; ſhould you have more, it is but in order to giving Money. Now, having this before you, it is enough to inform your Judgments as proper to guide your Vote.

Mr *Garroway*.] Two Millions will not do the Charge, according to the Computation of Horſe and Foot; but if you be pleaſed that it be added to the Revenue, it will do all your Buſineſs, and I believe you will be ſupplied fully.

[*Reſolved*, That, for the reducing of *Ireland*, and joining, this enſuing year, with their Majeſties Allies abroad, in a vigorous Proſecution of the War againſt *France* both by Sea and Land, a Supply be given to their Majeſties, not exceeding the Sum of two Millions, to be added to the Public Revenue: Which was agreed to by the Houſe, *Nem. con.*]

* See the King's Speech, p. 388.

Monday,

Monday, November 4.

Sir *Thomas Jenner* [attending at the Door, according to the Order of *October* 28 *, he was called in to the Bar, and heard what he had to ſay to the Matters objected againſt him, and then withdrew. *Journal of the Day.*]

[Debate.]

Mr *Brewer.*] If you puniſh this man here in the Houſe, and he be liable to be puniſhed at Law, it is a double puniſhment. I would leave him to the Law.

Sir *Joſeph Tredenham.*] I find nothing laid to his charge, but what *Weſtminſter-Hall* may puniſh. Pray diſcharge him upon his Bail.

Mr *Foley.*] I was in *Oxford*, when *Jenner* ſat upon the Commiſſion for *Magdalen-College*. He was very ſevere upon Dr. *Hough* †, and required great Bail of him. Some of his Predeceſſors have been hanged for leſs Crimes. The Judges keep the King's Conſcience, and have betrayed their Truſt. Commit him to the Serjeant, and then conſider him in the Indemnity.

Mr *Smith.*] He thinks himſelf more an object of Favour, that he ſat only in the laſt Eccleſiaſtical Commiſſion, but I think him more criminal for that, ſeeing the ill effects of the former; for in the laſt there was more Authority of Oppreſſion than in the former. An Excuſe in this Caſe is rather a Juſtification. His Hand was as deep at *Oxford* as any man there. Dr *Fairfax* ‡ ſaid, "He hoped he ſhould have remedy in *Weſtminſter-Hall* for being diſpoſſeſſed of his Fellowſhip." *Jenner* told him, "He ſhould have little Favour there." *Fairfax* ſaid, "He expected no Favour, but Juſtice there." Every man that acted there has been a public Injury to

* It appears by the Journal, That the Houſe being informed (*Oct.* 25.) That ſeveral of the Priſoners in the *Tower* were then bailing in the Court of *King's Bench*, being brought thither by the Governor of the *Tower*, by virtue of a *Habeas Corpus* awarded for that purpoſe; particularly Sir *Thomas Jenner*, Mr *Graham*, and Mr *Burton*; *Ordered*, That they be immediately brought to the Houſe, by the Governor of the *Tower*, to anſwer ſuch matters as ſhould be objected againſt them. And the Serjeant afterwards acquainting the Houſe, that Sir *Thomas Jenner* was bailed, and gone out of Court, he was immediately ordered into the Serjeant's Cuſtody.

† The Preſident of that College, who, for the firm ſtand he there made againſt Popery and Arbitrary Power, was ejected by the Eccleſiaſtical Commiſſion, and died full of years, and full of honours, (Biſhop of *Worceſter*) in 1743.

‡ One of the Fellows of *Magdalen-College*,

the

the whole Nation, as well as the particular Perſons of the College.

Mr *Machell.*] He has hanged ſeveral for running from their Colours. He would do any thing he was put upon, and would have hanged all this Houſe, if he could.

Sir *Robert Howard.*] You have made a great noiſe about theſe men. Turning them back to the Law is turning them no where. The Statute of 25 *Edward* III has been endeavoured to be drowned by theſe men, in the Common Law, and from thence came the late Murders. Should all the Precedents of King *James* ſtand good Common Law-Precedents, of perpetual Impriſonments, and the King's Power to diſpenſe with the penal Laws, I know not what the Judges will do as to Common Law, by theſe Precedents of the Eccleſiaſtical Commiſſion, and the King's Diſpenſing Power. I move that you will proceed in Parliament upon theſe Offences, and finiſh the Relief that has been begun for the Nation, and reſerve this man to the Act of Indemnity, or the Pains and Penalties.

Ordered, That Sir *Thomas Jenner* be committed to the Serjeant at Arms.

[*November* 5, Gunpowder-Treaſon. Dr *Birch* preached before the Houſe.]

Wedneſday, November 6.

An ingroſſed Bill for eſtabliſhing the Rights of the Subject, [was read the third time.]

Sir *Edward Seymour.*] I find in the latter Clauſe of the Bill a Power in the King of diſpenſing, *&c.* If that be admitted, all the reſt is nothing. I would adviſe not to part with the Money-Bill, till this be perfected; let it lie upon the Table.

Sir *Edward Huſſey.*] There is a Clauſe in the Bill, that I do not underſtand; "That no Papiſt ſhall ſucceed to the Crown, none of the Church of *Rome*, and no Proteſtant ſhall be put by. If a Proteſtant be a reputed Papiſt, he ſhall be put by." *Charles* I was thought a Papiſt: *Charles* II by many was reckoned popiſhly affected; and I fear, as there was *Spaniſh* Gold ſtirring in Court and Parliament, in *James* I's time, why may not theſe things happen again? I hear of no Teſt to the King

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to diſtinguiſh him from a Papiſt; muſt the muzzle be ſet upon the King when the Council pleaſe? This may prevent a *Lutheran* from coming to the Crown, becauſe he comes not up to all the Points of our Religion. I fear, it may be like the Bill of Oaths, which the greateſt Lawyers of *England* underſtand not. There is a Clauſe in the Bill, "That the King ſhall not ſuſpend Laws, *&c.*" What if a murder be committed, and a man wrongfully condemned, ſhall he be hanged for want of the King's Power to pardon? I ſtand not up to oppoſe the Bill, but I would have it explained and moderated.

[The Bill paſſed, *Nem. con.*]

Sir *Joſeph Tredenham.*] I hear that Major-General *Ludlow* * is come into *England*, and is in Town, and that his old accomplices do comfort, aid, and abet him. By Act of Parliament he is attainted, and is a declared Enemy to the King and Kingdom. To what end do we raiſe Taxes upon the People, but to ſupport the Government? To what can theſe Perſons pretend, but to bring us into the ſame Anarchy as formerly? Now we are ſetting things in order, they are contriving to make us Victims to their Paſſions. I am for the public ſecurity, and it is to that end I ſtand up. I would addreſs the King to iſſue out his Royal Proclamation, to command him out of the Nation.

Sir *John Guiſe.*] I offer it to your Conſideration, whether any body will make it appear that *Ludlow* is here?

Marqueſs of *Wincheſter.*] I think it well moved. The Gentleman at the Bar tells you, that he walks in the Face of the Nation. 'Tis neceſſary the Gentleman ſhould give you Information. I know nothing of the Perſon.

* *Ludlow* had been a Ringleader of the Republican Party in the Civil Wars, had diſtinguiſhed himſelf in the Battles of *Edge-hill*, *Newbury*, &c. and was alſo one of King *Charles* I's Judges. He ſerved afterwards under *Cromwell* as Lieutenant-General of Horſe in *Ireland*, and had a great ſhare in the Reduction of that Kingdom. At the Reſtoration he found means to eſcape to *France*, and from thence went to *Lauſanne* in *Switzerland*, where he reſided many years. He afterwards removed to *Vevay*, where, in ſpite of many Attempts that were made to aſſaſſinate him, he not only ſurvived King *Charles* II, but lived to ſee the Ruin of King *James* II, by the Revolution, in which he earneſtly deſired to have been aſſiſtant; and left his Retreat at *Vevay*, and came to *England*, in order to exert his Old-age in that Cauſe; having ſome expectations of being employed in *Ireland*, againſt the Popiſh and other adherents to the (as he ſtyles him) "abdicated King." And with this Deſign he ventured to appear openly in *London*, *&c. Biograph. Britann. in his Article.*

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My Family, I am ſure, has ſuffered in King *Charles* I's time*. I ſpeak nothing of the man, but for your Juſtice.

Mr *Hawles*.] I do not ſee how *Ludlow* comes to be ſo conſiderable a man as that this Houſe ſhould addreſs the King about him. Every private man may attach him. He is attaint upon Record. Many have been guilty of Murders; you have ſaid ſo, and yet they walk abroad.

Mr *Coningſby*.] I think it the ſtrangeſt thing that ever was heard of, a Parliament ſitting, to ſuffer one to face you that is attainted by Parliament. Upon this extraordinary occaſion, do an extraordinary thing, and addreſs the King, as is moved.

Col. *Birch*.] I am in a new Perriwig, and pray let the Houſe look upon me before I am heard. For this Perſon to come in the face of a Parliament, is a horrid thing, if it be ſo. I am curious to know whether he be here, or no. Pray let ſomebody avow him to be here before you make the Order.

[*Reſolved*, That an humble Addreſs be preſented to his Majeſty, That he will pleaſe to iſſue out a Proclamation for the apprehending Colonel *Ludlow*, who ſtands attainted of High-Treaſon, by Act of Parliament, for the Murder of King *Charles* the Firſt: And that he will pleaſe to propoſe a Reward to ſuch as ſhall apprehend him.

Ordered, That the ſaid Addreſs be preſented to his Majeſty by Sir *Edward Seymour* †.]

Col. *Tipping*.] The late Chancellor *Jeffreys* died in his bed, with ſo much guilt of Murder upon him, and the Houſe ſitting. 'Twas he that voided the Charters, and backed the Judges in the Diſpenſing Power, and in it

* HisGrandfather, *John* Marqueſs of *Winchester*, made a Garriſon for King *Charles* I, of his fine Seat at *Baſing*, which endured a two years ſiege, from *Auguſt* 1643 to *October* 1645. But at laſt it was taken by ſtorm, with himſelf in it, with about 400 Perſons, and was burnt to the ground by the Enemy, having found in it of Money, Jewels, *&c.* to the amount of 200,000 *l.*

† This Addreſs being preſented the next day, his Majeſty, without any Heſitation, returned this Anſwer: "That the Addreſs was ſo reaſonable, and the deſire ſo juſt, that he would order a Proclamation to be iſſued out immediately for that Purpoſe." *See the Journal.*

But *Ludlow*, as ſoon as he was informed of the Motion, had haſtened to the Sea-ſide, whence, after waiting near a Fortnight for a good wind he returned to *Vevay*; where he continued till his death, which happened in the year 1693, and in the 73d of his Age. His Memoirs were firſt publiſhed about five years after his death. *Biograph Britann. ubi ſupra.* Sir *Edward Seymour* was particularly zealous againſt General *Ludlow*, on Account of his having a Grant of the General's forfeited Eſtate in *Wiltſhire*.

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paſſed ſentence on all your Laws and Liberties. He had his Hand in Lord *Ruſſel*'s and Col. *Sidney*'s Blood, and executed Sir *Thomas Armſtrong*, by a Rule of Court, expreſsly againſt the Statute of *Edward* VI. Innocent Blood he ſought for, and condemned; as Mrs *Liſle*, for harbouring a Traytor knowing him to be ſuch, and he knew he was not *. He has raiſed his Eſtate on the ruin of the Laws. His Eſtate and Honour are the Price of your Blood. I move, That you will attaint him.

Mr *Coningſby*.] It is all one, for a man in a Gown, or a man with a Sword, to ruin your Laws. I would reduce him to that State he was in before he did theſe Villanies.

[*Reſolved*, *Nem. con.* That a Bill be brought in for the Forfeiture of the Eſtate and Honour of *George* late Lord *Jeffreys*, Baron of *Wem*, late Lord Chancellor of *England*: And it is recommended to Colonel *Tipping* to take care of it.]

* Her huſband had been a Regicide, and was one of *Cromwell*'s Lords, and was called the Lord *Liſle*. She was a woman of great Piety and Charity. The night after the Duke of *Monmouth*'s Defeat [in 1685,] *Hicks*, a violent Preacher among the Diſſenters, and *Nelthorp*, came to her Houſe. She knew *Hicks*, and treated him civilly, not aſking from whence they came. But *Hicks* told what brought them thither; for they had been with the Duke of *Monmouth*. Upon which ſhe went out of the Room immediately, and ordered her chief Servant to ſend an Information concerning them to the next Juſtice of Peace, and in the mean while to ſuffer them to make their eſcape. But, before this could be done, a party came about the Houſe and took both of them, and her for harbouring them. *Jeffreys* reſolved to make a ſacrifice of her, and obtained of the King a promiſe that he would not pardon her; ſo ſhe was brought to her Tryal. No legal proof was brought that ſhe knew that they were Rebels: The names of the perſons found in her houſe were in no Proclamation; ſo that there was no notice given to beware of them. *Jeffreys* affirmed to the Jury, upon his honour, that the perſons had confeſſed, that they had been with the Duke of *Monmouth*. This was the turning a Witneſs againſt her, after which he ought not to have judged in the matter; and though it was inſiſted on as a point of Law, that, till the perſons found in her houſe were convicted, ſhe could not be found guilty, yet *Jeffreys* charged the Jury in a moſt violent manner to bring her in guilty: All the audience was ſtrangely affected with ſo unuſual a behaviour in a Judge; only the perſon moſt concerned, the Lady herſelf, who was then paſt 70, was ſo little moved at it, that ſhe fell aſleep. The Jury brought her in *Not guilty*, but the Judge, in great fury, ſent them out again; yet they brought her in a ſecond time, *not guilty*. Then he ſeemed as in a tranſport of rage, and upon that, threatened them with an Attaint of Jury. So they, overcome with fear, brought her in the third time *Guilty*. The King would ſhow no other favour, but that he changed the ſentence from burning to beheading. She died with great conſtancy of mind, and expreſſed a joy that ſhe thus ſuffered for an act of piety and charity.

Burnet.

Thurſday,

Thurſday, November 7.

In a Grand Committee [on the Supply. On the 500 *l.* Forfeitures.]

Sir *Edward Seymour.*] The Queſtion is, Whether Perſons liable to the 500 *l.* Forfeiture ſhall be charged towards the raiſing the Money that you have agreed? I ſuppoſe no man but believes, that, before you raiſe this ſum, there will be a great many hardſhips ſomewhere. You will not make price of their Folly—You know what attempts have been made againſt our Religion and Laws; this penalty is no more, than what they are liable to already. Nothing can be of greater conſideration of Juſtice than to make this a Fund. To pay 100,000 *l.* a month—a man may live to be miſtaken. The Prince of *Orange*'s Army, and the other Forces in the *Weſt* Country, have eaten up all the fodder of the laſt year, and you will have an ill account of that Country if a hard winter. I will with chearfulneſs ſupport the Government, but it is reaſonable that we pay not the price of other mens follies, while they pay not a farthing to the public charge. As for that Law of the Teſt, the wit of man could not have found out a greater preſervative againſt Popery, and will you let go that impudent Action of taking Offices without the Teſt, *&c*? Have they deſerved this? Were they put in for preſervers of your Liberties? They may pretend to be defenders of your Faith too. You are not at the laſt end of your tether. I think it reaſonable that you ſhould raiſe theſe 500 *l.* Forfeitures to be applied to the Public.

Mr *Hawles.*] I am no friend to Popery; and I do not regard whether Papiſt, or Fanatic, break your Laws: I would have the Laws run upon them. But the proper Queſtion is, Whether the 500 *l.* Forfeiture will yield what you think? If you run upon every man, I am ſure you will never raiſe it, unleſs, as in the Act of Conventicles, he that is, pays for him that is not, reſponſible. You muſt make a new Law for Perſons not qualified, and who have got nothing by their Offices.

Sir *Thomas Lee.*] It may happen, I think, that a Proteſtant, who would make himſelf grateful to King *James*, has

has done more miſchief in promoting the Popiſh Intereſt than Papiſts. Perhaps it will come ſo hard upon thoſe in Corporations, that it may undo them who have little, and cannot ſpeak for themſelves; but how will you diſtinguiſh it? Thoſe who had no Offices of Profit, and will now take the Teſt, I would have them excuſed, but ſuch as refuſe now ſhould pay double.

Sir *Edward Seymour.*] I do not underſtand the reaſon of that diſtinction of "then" and "now." The thing they ſtood upon was not matter of Conſcience, which is the ſame now as it was then. Becauſe they carried on the Suſpending Power, that has brought us into all this misfortune; therefore I am not for diſtinction.

Sir *John Thompſon*] I wonder the Gentleman can remember ſome and forget others. He ſpeaks of "the Diſpenſing Power:" I think they were as great Enemies to the Government who ruined us on the Prerogative ſide. *He was taken down to Order.*

Mr *Sacheverell.*] I am, in a great meaſure, of the Opinion of that Gentleman. I cannot agree to deceive the King, by getting nothing by poor men. You will puniſh them that did it, to ſave themſelves from ruin. The Papiſts had another end in it. I do know perſons that did come in at that time, that wiſh as well to the Church of *England* as any men, who would rather run the Penalty than let the Corporation be ruined, and Corporations had been ruined that gave not up their Charters. I can go up to thoſe that made no profit of it, and can freely come in. I mean not, by this, to excuſe Juſtices of Peace, nor Deputy-Lieutenants, but poor men in Corporations.

Sir *Edward Seymour.*] I am ſorry *Thompſon* did not go on; but I call to his memory, or any man's, to charge me with doing any thing againſt the Intereſt of the Nation, or for any foreign Intereſt.

Sir *William Pulteney.*] They were to be proſecuted within ſix Months, who acted in Commiſſions without taking the Teſt, and there have been pardons already paſſed.

Mr *Brewer.*] Whoever tranſgreſſed againſt this Law muſt be Fools or Knaves; therefore put the Queſtion as firſt moved.

Sir *John Guiſe.*] For ought I ſee, we need not have put it ſo far as King *James.* If the Proſecution muſt be within ſix Months, I would willingly ſee that.

Mr *Sacheverell.*] If you would put it by a Sum, let it be by a *Quantum* of value upon the poor men. I do not except men of Authority, as Juſtices of the Peace, and Deputy-Lieutenants, but poor men of Corporations. I know not one Juſtice not worth 100 *l. per ann.* nor Deputy-Lieutenant. I know no way but to ſtate it by the Sum; put it upon men of 100 *l. per ann.* or Money in value to it.

Mr *Garroway.*] It is a hard matter to word this Queſtion, but I would put in "Privy-Counſellors, Sheriffs, Mayors, Deputy-Lieutenants, and Juſtices, and all Offices of Profit."

Sir *John Guiſe.*] There is one you will hardly come at, *Charles Fines*, Recorder of *Glouceſter*—Pray remember his Charge in Print. If you go by Offices of Profit, that may do.

Col. *Birch.*] Do not forget them. I was moſt afraid of Governors of Caſtles, and thoſe in the Army; they were moſt dangerous.

[*Reſolved*, That it is the Opinion of this Committee, That, towards the raiſing the Supply to be given to their Majeſties, the pecuniary Penalties incurred by all Privy-Counſellors, Lord-Lieutenants, Deputy-Lieutenants, Militia Officers, Juſtices of Peace of Counties and Cities, Mayors, Bailiffs of Corporations, Sheriffs, Recorders, Town-Clerks, and alſo by other Perſons who have accepted or exerciſed any Office or Place of Profit, either Military or Civil, other than ſuch as are now Officers in their Majeſties Army or Fleet, contrary to an Act of 25 *Charles* II, entitled, "An Act for preventing Dangers which may happen from Popiſh Recuſants," be ſpeedily levied and applied to that purpoſe: And that the Houſe be moved, That a Bill be brought in to that Effect. Which being reported, was agreed to by the Houſe the next Day, and a Bill was ordered to be brought in accordingly.

November 8, Omitted]

Saturday, November 9.

In a Grand Committee. [On the Supply.]

Col. *Birch.*] I have ſeen an *Iriſh* Rebellion before this, in 1640. The Rebellion in *Ireland* was then quelled out of *Iriſh* Money and *Iriſh* Eſtates. What was then done

was

was by a Bill for Subſcription at *Guild-hall* for ſo many Acres of Land on the Rebels Eſtates, and other great Perſons. There was then 370,000 *l.* raiſed upon it. When *Charles* II came in, a Committee of Claims was made—But if the Eſtates of thoſe in Arms againſt the King and Kingdom were offered to ſale, I think they would raiſe ſome Money. This I ſubmit to your Wiſdom. It makes ſo many Friends to the Government, and it is their Intereſt. Your Enemies, by this, will ſee you are in good earneſt, and that they are no Friends to you, nor you to them.

Sir *Thomas Clarges.*] In 1641, an Act paſſed for Propoſals in ſuch a Province, and ſo much was given for ſo many Acres. I am for a Committee to receive Propoſals, before you make an Act; it is too early for that. At that time, in 1641, we were poſſeſſed of *Dublin*, and other places, and I think, if we do any thing, a Committee ſhould view the former Act.

Mr *Hawles.*] I know no Eſtate yet forfeited in *Ireland.* In *Charles* I's time, they attainted the Perſons before they forfeited their Eſtates.

Mr *Garroway.*] You have paſſed ſome Votes which will not give ſatisfaction, to come up to your preſent neceſſity to raiſe two Millions, by the ſeveral projects; we muſt go really to the thing, and reſolve that the Land muſt bear ſome. I care not which way, ſo it be done better or worſe; therefore ſay what Proportion the Land muſt bear. I propoſe, that you will raiſe a certain Sum upon the Land, 1,400,000 *l.* by a Pound rate, monthly aſſeſſment, and debate that.

Mr *Godolphin.*] You are not yet ripe for this Queſtion of laying 1,400,000 *l.* upon Land, but you may be preſently; the Returns being about making in the Exchequer of the 12*d.* in the Pound. By that you will know exactly what to do, when you ſee the Duplicates. I believe you muſt lay 2*s.* in the Pound for one year.

Reſolved, That it is the Opinion of this Committee,

1. That the Houſe be moved to appoint a Committee to receive and conſider of Propoſals for advancing Money upon the ſecurity of Eſtates forfeited by Occaſion of the preſent Rebellion in *Ireland.*

2. That, towards the raiſing the Supply, *&c.* a Sum not exceeding, 1,400,000 *l.* be charged upon Land.

3. That the Sum charged upon Land be raiſed by way of a Pound Rate.

4. That the ſaid Pound Rate be two Shillings in the Pound for one Year, *&c.* as alſo a farther Charge of two Shillings in the Pound upon all ſuch Perſons as ſhall refuſe to take the Oaths which are appointed inſtead of the Oaths of Allegiance and Supremacy. Which being reported, were agreed to by the Houſe, and the Attorney and Sollicitor General, were ordered to prepare and bring in Bills accordingly.]

Monday, November 11.

[On the State of *Ireland*.]

Sir *Thomas Clarges*.] If the *Engliſh* Army had intercepted King *James*, we might have have had *Dublin* and *Drogheda* before they had it. I move, That ſome Perſons of Truſt may be employed to inſpect the Army.

Mr *Garroway*.] I move to ſend into *Ireland* ſome Perſons, not upon Recommendation, but Perſons of Integrity, to inſpect the Army. I would not have ſpoken now, but that the Fleet and Army are ſo out of order, that I know not what they are, nor where. I would have alſo a true State of the Army in *England*. I would know what we have to truſt to.

Mr *Papillon*.] I move, That you will enquire what Wines and Brandies have been taken as Prize, and judged by the Commiſſioners, that it may be ſent into *Ireland* for relief of the Army there.

Sir *John Guiſe*.] I know not whether the Army ought to be refreſhed with that which ought to have been thrown upon the Ground. Perhaps there may be ſome running Contrivances to elude your Act, but you may, if you pleaſe, have benefit by this; perhaps your Army would buy it. I ſhall not be ſatisfied to elude your Law, but if it be diſtributed among the Regiments, that the common Soldiers may have the benefit of it, and none elſe, I am for it.

Mr *Garroway*.] I deſire that ſome of theſe Gentlemen that tell us of this Wine and Brandy, would acquaint you how they came by it, whether by Prize from us, or the *Dutch*? I can give no Vote, till I know how they came by it.

Mr

Mr *Sacheverell.*] Appoint a Committee to enquire not only what Wines were ſeized, but how. I would have that to be part of the Queſtion.

Sir *John Guiſe.*] I hope the Commiſſioners of the Cuſtoms will give you an Account. If they do not, appoint a Committee to enquire.

Mr *Hampden.*] You may direct the Commiſſioners of the Cuſtoms and Prizes to bring you an Account on *Monday*. Upon *Papillon*'s Motion about Salt, direction is given that the Commiſſioners of the Navy ſhall have the refuſal of the Prize-Salt, at the Price, I ſuppoſe, of *Lancaſhire* Salt.

[*Ordered*, That the Commiſſioners of the Cuſtoms, and the Commiſſioners of the Prize-Office, do, upon *Wednesday* Morning next, bring in an Account, what *French* Wines and Brandies, and other *French* Goods, have been taken as Prizes, or have been ſeized upon by the Officers of the Cuſtom-Houſe; and where they are, and when taken, and by whom.]

Col. *Tipping.*] I hear ſeveral thouſands of Caſks are providing for *Portugal*, for "red Wines;" which will be brought in under that Notion, and will prove "*French* Wines."

Mr *Sacheverell.*] I would know where they are taken, when, and by whom? I like the Motion well, to inſpect the Army in *Ireland*, which, I hear, is ſo low that I am aſhamed to name them. Notwithſtanding the accounts of 36,000, I believe they are not 14,000 men, and we pay for 36,000. I would have nothing wanting of our Duty, and to take care that other Perſons do theirs, to do what we would all carry on, the reducing of *Ireland*. As for the Fleet, if we have ſuch another Summer, it will be in vain for us to be here. I move, That the King would ſend ſuch Perſons to inſpect the Army and the Fleet, as he does confide in.

Mr *Ettrick.*] Several of your Members are in *Ireland* Men of Quality. I move, That they may come over and give you Account.

Col. *Auſten.*] If you have Members there independent on all commands, I am for it, but I would underſtand the Members there. If no more than Common Fame repreſents, you had as good have none.

Sir *John Guiſe.*] I doubt not but it is abſolutely neceſſary for your ſervice to know the Numbers of your Forces in *Ireland*, the Army here, and the Fleet. I hope you will have a good Account, as far as relates to *England* and the Fleet, but you have an Army in *Flanders*; that in *Ireland* is wholly in Mr *Harbord*'s, and that in *Flanders* in Lord *Churchill*'s, Inſpection, *&c.* As for a Committee, it is impoſſible they ſhould give you Account, unleſs ſome ſuch way be taken.

Sir *Thomas Lee.*] The Debate now ſtands, that the Army of *Ireland* is diſproportionable to what you pay; it is propoſed to ſee the Muſters ſent up to the King. For the preſent, the King is a ſtranger to *England*; it is a wonder he knows ſo much already. 'Tis for the King's Service, that you make him this Repreſentation; by it he may know what otherwiſe he could not. He muſt ſee with other mens eyes. I ſee no doubt but the King will appoint Commiſſioners; therefore put it off your Hands.

Mr *Smith.*] I would have Perſons inſpect the Army, that have no Intereſt of command in it; they muſt incur the ill thoughts of the reſt, and I think them not ſafe in their lives by their Fellow-Officers.

Sir *Joſeph Tredenham.*] I offer it, how you can addreſs the King in this now, when, on *Wedneſday*, you go upon the State of the Nation?

[*Reſolved*, That an humble Addreſs be preſented to his Majeſty, *&c.* That he will pleaſe to appoint ſome fit Perſons to go over into *Ireland*, to take an Account of the Number of the Army there, and the State and Condition of it.]

[*November* 12, Omitted.]

Wedneſday, November 13.

A Meſſage from the Lords, to deſire, That, Mr Serjeant *Trenchard** and Mr *Hampden** jun. and ſuch other Members [as can inform the Lords about thoſe matters] may have leave to appear, when deſired, to declare their Knowlege who were the Adviſers and Proſecutors of the Murders of Lord *Ruſſel*, Col. *Sidney*, Sir *Thomas Armſtrong*, Alderman *Corniſh*, and others; [and who were the Adviſers

* Theſe two Gentlemen had been accuſed for being concerned with the Duke of *Monmouth* and Lord *Ruſſel* in the Plot of 1683. Mr *Hampden* had been tried and fined 40,000 *l.*

of

of iſſuing out Writs of *Quo Warranto's*, &c. and who were the Regulators, and who were the publick Aſſerters of the Diſpenſing Power.

Mr *Sacheverell.*] This is a Precedent that is very new. I never ſaw any of the like nature before. It lays a hard charge on you, as if your Members never mentioned this Evidence to you. The naming theſe Gentlemen in the Meſſage, "and ſuch other Members as can inform the Lords, &c!"—To grant an unlimited Power of we know not whom, is not Parliamentary.

Sir *Thomas Lee.*] I think, the thing is quite new, or out of my Memory. I would rather take a day's time to conſider of Precedents. I cannot agree that it is an original thing (as ſaid) but things of this nature are nice betwixt both Houſes.

Mr *Boſcawen.*] There was a Member examined about Lord *Eſſex*. He aſked your leave, when called upon by the Lords; and now it is much more reaſonable that you ſhould give leave.

Sir *John Trevor.*] This is a matter of great Importance. I would not deny the Lords any thing in which they have a judicial Power; if you can give them any Aſſiſtance, in that you may. Enquire into Lord *Strafford*'s Caſe, and you will find that Sir *Henry Vane*, a Member, was examined by the Lords; and ſome Members now in Lord *Stafford*'s Caſe; but it was when the Commons were Proſecutors. As for proceeding by Bills of Attainder, there are but few Precedents, but what have begun here, but thoſe by the King's Attorney-General, by the King. I would not have you give up your Privilege; but I would give the Lords ſatisfaction, and anſwer them by Meſſengers of your own, and adjourn the Debate till to-morrow.

Sir *Joſeph Tredenham.*] I would willingly comply with the Lords. I hear only of the Precedent of the laſt Seſſion; and before you confirm that Precedent, by adding another to it, I would conſider.

Sir *John Guiſe.*] I know my own Ignorance in Methods of Parliament; but all deſire to clear up the duſt in this caſe. Rather than delay it, refer it to a Committee, to ſee the manner of proceeding of the Houſe, and inſpect your Books, and we commend it to their diſpatch.

Mr *Charles Montagu.*] I am ſo far from hindering the Information of the Houſe, that I could wiſh we had begun the Enquiry here. I believe the Committee of the Lords meet not till *Friday*, and you may conſider of it.

Sir *Robert Cotton.*] I deſire to ſee a full Proſecution of this Buſineſs. Never were men ſo illegally proſecuted and executed. But you have had no Precedents of this Nature, but the ſending for Sir *Chriſtopher Muſgrave*, and he was named by the Lords; and ſo far I would agree with the Lords, to the Perſons they name; but, as for the other Part of the Meſſage, "That Perſons at their Lordſhips pleaſure may be ſent for," there is no inſtance of Precedents; and ſeeing you have none, for the Honour of the Houſe you ought to conſult Methods of Parliament, and to anſwer it to thoſe that ſhall come after us. I move for a Committee, *&c.*

Sir *Thomas Littleton.*] I would not delay it ſo long as referring it to a Committee. The former part of the Lords requeſt ſeems reaſonable, and is far from claiming a Juriſdiction; but, as for the other Part, to examine whom they ſhall ſee cauſe, of your Members, I am utterly againſt that Juriſdiction.

Mr *Hampden.*] You are rationally moved, by *Littleton*, to ſend no Anſwer at all to the latter part of the Meſſage.

Sir *Thomas Clarges.*] I have a great difficulty upon me in this, concerning the Lords Juriſdiction. By the Statute of *Henry* IV, "There ſhall be no more Appeals of Treaſon of Lords againſt one another in Parliament." But, admitting the Lords had Juriſdiction of themſelves, they have none upon Commoners, but, if this may tend to the Accuſation of Commoners, it is againſt the right of the Commons; but if they ſay it is againſt ſuch a Peer, and ſuch, but to have your Members neither to know, whether it is againſt a Commoner, or a Peer, I am againſt it.

Sir *Edward Seymour.*] I came in late, but I collect from the Debate, that the Lords deſire *Trenchard* and *Hampden* to attend the Lords, and give Evidence of the Authors of the Murders of Lord *Ruſſel*, *&c.* the Adviſers of the *Quo Warranto's*, and Regulators of Corporations, and any other Member

Member to attend their Lordſhips, when deſired. I think this of that importance to the Conſtitution of Parliament, that you cannot find one inſtance of that kind. When an Accuſation has been from the Commons, then you have permitted your Members to give Evidence to the Lords, but upon an original Cauſe from the Lords—If you examine upon the Legiſlative, you are upon equal footing with the Lords; but will you ſubmit and ſubject yourſelves a degree lower, having no Precedents to warrant your Proceedings? I hope you will be tender how you admit it.

Mr *Hawles.*] 'Tis ſaid, "There is no Precedent of this Meſſage from the Lords;" and, indeed, there is no Precedent of what has been done lately in the abominable Tryals. It is certain that a Member may accuſe a Lord, and certainly there is no manner of miſchief in this, but to do a great deal of good.

Sir *Thomas Lee.*] I deſire Gentlemen would think how little things draw great conſequences; if Gentlemen ſee what they are about to do, perhaps they will not do it. I think I have read, or heard, that, in former times, the Lords ſent to the Commons to perſuade them to the neceſſity of giving Money; the Commons would not confer with the Lords about it. You may remember *Skinner*'s Caſe *. The Lords tell you, now, they are doing a thing that is the greateſt matter in Queſtion, whether they can do it; and when you make yourſelves a Party, and conſent to it, I know not how far it will go. It will be, or not be, as the Lords ſhall think fit. In *Fitzharris*'s Caſe, at *Oxford*, the Lords would not accept your Impeachment †. I would keep Gentlemen on the ancient Foundation. This Caſe is an Enquiry into matters criminal. I know the conſequence of the *Quo Warranto's* againſt Corporations, and no man is ſo brutiſh as not to abhor the Murders of Lord *Ruſſel*, *&c.* but if the Lords take upon them to make Enquiry into that which you have power to do, and ought to do, they may, perhaps, bring a Commoner ſummarily to be tried at their Bar.

Mr *Hawles.*] Appeals were taken away by the Statute *Henry* IV. of one Lord againſt another in Parliament, for Treaſon; but ſtill there are for Murder and Felony. Appeals

* *See Vol.* I. p. 150. † *See Vol.* VIII.

for

for Treaſons are always in Parliament, and are to be tried by Battail. If a man was antiquated, above ſixty Years of age, he was not bound to Battail, nor a woman. But there is no colour that that Statute took away Impeachments in Parliament—I would have theſe perſons, deſired by the Lords, have leave to go.

Sir *Henry Capel.*] I know, whenever Privilege comes in Debate, that it is a very tender and nice thing, but I hope it ſhall ever be for the preſervation, and not deſtruction, of the Government. I would not carry Privilege to that exceſs to prevent common Juſtice, that it may be obſtructed. In this caſe, where you have reverſed Attainder of theſe perſons, I hope no Privilege will take place. I think this is no original Cauſe from the Lords. I think the Peers, as part of the Legiſlature, have power to enquire into theſe things, as well as the Commons. Here have been Charters and mens lives taken away, and ill Returns of Members deſigned, and your Laws deſtroyed thereby, and no remedy. It is ſaid, "There is no Precedent for this, *&c.*" but there is a Precedent the laſt Seſſion: Sir *Chriſtopher Muſgrave*, and Sir *Philip Howard*, attended the Lords, to give evidence in the Caſe of Lord *Eſſex*. As for a Committee to conſider this, it is a delay to the Enquiry, and we ought to ſhow our readineſs to the Lords in it.

Sir *John Trevor.*] I would know the date of the Meſſages; if it bears date now, it is a ſmall delay for a Committee to conſider it till to morrow-morning. Is it not better to allow the ſmall delay till to-morrow, than to divide the Houſe upon it? And the Yeas muſt go out.

Sir *Robert Howard.*] It has been ſaid by ſome, "We muſt agree to all the Meſſage, or none." *Skinner*'s Caſe was moſt foreign to this, for that was point of Property, which might have had remedy in *Weſtminſter-Hall*, and was an original Cauſe from the Lords. Can this be a prejudice to you? But this will be a deep one; when you will do nothing yourſelves in it, and hinder the Lords from doing it. "You have heard a great deal of this Matter, and let all paſs, and the Lords think they can do ſomething in the diſcovery, and the Commons delay contributing to it." This will be ſaid.

Mr

Mr *Hampden.*] The Queſtion is not properly "Agree, or not," but you may divide the Queſtion. I am for maintaining all the Privileges of the Houſe, but you have none for obſtructing Juſtice. Our Common Law is founded upon eternal maxims of Reaſon of any Municipal Law in the world; the Civil Law, the Municipal Law of the *Romans*, was ſo. When your Privilege ſtops Juſtice, it is time to hinder it. In the Popiſh Plot, the Lords ſent for ſome of the Commons to give Evidence, and particularly in the Caſe of Sir *Edmundbury Godfrey*, the Lords ſent for Witneſſes perpetually. The thing is not judicially before you. In Lord *Briſtol*'s Caſe, accuſing Lord *Clarendon*, the Lords over-ruled it, "That a Lord could not accuſe another in Parliament." In ſuch Caſes, when the Lords deſire Evidence, and you plead Privilege, I could wiſh Privilege out of doors.

Reſolved, That leave be given to Mr Serjeant *Trenchard*, and Mr *Hampden* *, jun. to attend the Lords.

Mr *Sacheverell.*] Now you have given leave to your Members, the Lords will eaſily underſtand it, but leave it an indifference for any to go that will.

[In a Grand Committee.] On the State of the Nation.

Sir *Robert Clayton.*] I am ſorry for the occaſion of this day's conſideration. *Lee* has told you, "That no complaints of Captains miſbehaving themſelves had reached the Admiralty." I could wiſh it had reached no other mens ears. Merchants are forced to hire *Dutch* Capers, much cheaper than they can get our own, for Convoys. The Merchants tell me, "They will give you proof, and produce receipts from Captains of Convoy-Money, of above 300 *l.*" I have a Petition from ſome Merchants; they are ready to lay before you matters, with fair proof, of refuſing Convoys, without great reward, and are ready with Evidence.

Sir *Robert Howard.*] Now we are come to a point, and a great one; therefore, I move, That the Speaker may take the Chair, to receive the Petition.

* Mr *Hampden* appeared before the Committee, and, as is ſaid, made a long Speech, tending rather to extoll his own ſervices, than to diſcover the authors of Lord *Ruſſel*'s death.

Sir

Sir *Thomas Clarges.*] Whether we had ill conduct of deceit, I will not determine, but I am ſure we are very unfortunate, when a great Fleet is in Harbour, and lies there, and conſumes all its victuals, and no account of its ſervice. Your men are debauched, and the Captains come to *London* to riot, and never went out to cruiſe, and no advantage is taken of that Fleet. You have heard of want of Convoys; though this of Trade is the life of the Land, yet we are over-reached in Treaties—The *Dutch* are at a fifth leſs charge in men than we. I could wiſh our Debate would tend to a remedy for the time to come. I have heard of Ships that have lain a year for a Voyage, and the Captains have taken all their men, and the Ships have been loſt. Formerly we had men ſufficient to carry on the War, and yet carry on our Trade. The *Dutch* are our great Competitors in Trade, and we join with them in War—I think, at leaſt, we ought to prevent theſe miſchiefs for the future. There was a time when the Government of *England*, though an Uſurpation, had the *French*, *Spaniards*, and *Hollanders*, all Enemies. Their Fleet was executed by Commiſſion, not by one Admiral, but it had three, *Blake*, *Deane*, and *Popham*. As far as my Prudence reaches, I would not commit the Fleet to one Admiral, but to three*. If the King ſend ſome of his Council to the General in *Ireland*, to adviſe and aſſiſt him—All this, I conceive, relates to the State of the Nation. You are not ready for a Queſtion, but we ſee the evil, and may apply remedy for the future.

The Speaker reſumed the Chair.

Sir *Robert Clayton.*] I have here a Petition from Merchants, who have had to the value of 600,000 *l.* taken from them by Pirates, and *French* Capers. If you pleaſe to give the Merchants a day, they will make out their complaints. Many have been taken within ſight of land, betwixt *Scilly* and *Plymouth*, and the *French* have done it.

Mr *Garroway.*] When the Petition was opened, you were told of Convoy-Money: I would have the Petitioners called in, to aver the giving of Convoy-Money.

Sir *Robert Clayton.*] Give them time, and they will prove it. Sir

* It was committed to three in 1693, *viz. Delaval*, *Shovel*, and *Killigrew*

Sir *Thomas Lee.*] I would have them called in, to inform you of getting Foreigners to convoy them, and giving Money to our Captains to convoy them.

They were called in.

The Speaker.] What ſums of Money were given for Convoy, and to whom?

Anſwer.] Captain *Churchill**, of the *Pendennis*, convoyed twenty Ships; before he would take them they paid him, ſome ten, ſome eight guineas.

Emanuel Hudſon paid him 40 *l.* for himſelf, and four more. I have ſhowed the receipt of 40 *l.* to Sir *Patience Ward*, by Captain *Churchill*, for Convoy.

Sir *Patience Ward.*] Capt. *Churchill* would not undertake a Convoy without 300 *l.* and becauſe he could not have the Money, he preſſed his men; and the Ship, for want of men, was caſt away.

Mr *Garroway.*] The Convoy is only from the Land's End to the River. If there be but this one Caſe, it is well; but if there be more, give them till *Monday.*

Mr *Hawles.*] To give a gratuity for a preſent, when the Convoy goes off, is ordinary; but this was paid firſt, by agreement.

Sir *Edward Seymour.*] Before you leave the Chair, I have a ſhort Motion to make, which, I hope, is for your ſervice. By what I have heard, I find the State of the Nation is in ill condition. It is a large Field, but one thing is manifeſt and notorious, the loſs of Trade and Treaſure, by neglect of guarding the Sea, whether by ignorance of the Admirals in general, or by particular miſmanagements.

Mr *Garroway.*] If you put it "To enquire into the miſmanagement at Sea," your Order will be too narrow; but put it "for want of due guarding the Sea."

Sir *Thomas Lee.*] I do not know Gentlemens meaning, nor how far loſſes at Sea, and due want of guard, will ex-

* Member for *St Albans*, and next brother to the Earl (afterwards the illuſtrious Duke) of *Marlborough*. He was many years Gentleman of the Bed-Chamber to Prince *George* of *Denmark*, and this year (1689) had commanded a ſquadron on the Coaſt of *Ireland*. After this he was appointed a Lord of the Admiralty, and in the reign of Queen *Anne* he was made Admiral of the Blue, and one of the Council to Prince *George*. He died in 1710.

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tend. Loſſes may be, and yet good Fleets at Sea, and you Maſters of the Sea. Great numbers of Ships were loſt when the *French* Fleet came not out. If Merchants will go Ship by Ship, and not by Company, all the Fleet cannot protect them. For my own part, I will own my ignorance: Gentlemen that know as little as myſelf, have got ten times more of the Government than I have.

Admiral *Ruſſel**] It being a Queſtion, Whether the Fleets were ſufficient to keep the *French* from coming out, they lay ſo long, that it was judged by Seamen fit for us to go in. It is ſaid, "The Fleet laſt Summer was of no uſe;" but you did not only keep the *French* Fleet in, but went to *Ireland*, a dangerous Coaſt, and kept and prevented the *French* from landing Men and Money. I think that was ſervice in your Fleet. 'Tis impoſſible to guard all places, but if your Merchants will venture, they cannot be guarded. If it appears to be thus, I think the Queſtion better let alone.

Sir *Samuel Daſhwood.*] I can juſtify it by Perſons, that the Sugar-Fleet loſt ſeven Ships. The Lords of the Admiralty were acquainted that the Fleet was in danger, that Lord *Berkeley* might ſtay for Convoy, but the Admiralty commanded *Berkeley* home; and I think the loſs was for want of Convoy.

* One of the chief promoters of the Revolution, being ſent over to the *Hague*, the *May* before, by many of great power and intereſt in *England*, to ſpeak very freely to the Prince, and to know poſitively of him what might be expected from him. He was a Couſin-German to Lord *Ruſſel*. He had been bred at ſea, and was Bed-Chamber-man to the King, when he was Duke of *York*; but, upon Lord *Ruſſel*'s death, he retired from the Court. He was a man of much honour and great courage; he had good principles, and was firm to them. *Burnet.*—He went over to the *Hague* again in *September* (accompanied by the Earl of *Shrewſbury*) and came over to *England* with the Prince. In 1690 he commanded the Fleet, and in 1692 obtained the memorable victory at *La Hogue*; notwithſtanding which, and though his fidelity, courage, and conduct were juſtified and approved by the Houſe of Commons, the King was ſo prejudiced againſt him, by the Earl of *Nottingham*, that he diſmiſſed him, ſoon after, from his ſervice. In 1694 he was reſtored to favour, and commanded a large Fleet that year, and the next, in the *Mediterranean*; and in 1696 diſappointed the *French* Invaſion. In 1697 he was created Earl of *Orford*, and was, at the ſame time, both Treaſurer of the Navy, and firſt Lord of the Admiralty. Being impeached by the Houſe of Commons in 1701, he was unanimouſly acquitted by the Lords, and his accounts, as Treaſurer of the Navy, were juſtified in 1703. He was again placed at the head of the Admiralty in 1709, from which he withdrew the year after, and died without iſſue in 1727.

Sir

Sir *Thomas Lee.*] Every fault is great, till underſtood. I think I may agree with the Gentleman in what he ſaid. The thing, in plain *Engliſh*, was thus: Such Ships as were fit to keep the Sea, and not ſick, were ordered to cruiſe, to do ſome ſervice of importance. The King commanded Lord *Berkeley* to come in, and refit, and victual; theſe were to take more men on board, for ſome extraordinary ſervice in *Ireland*.

Mr *Papillon.*] I hear it ſaid, "More ſervice was done in keeping the *French* from *Ireland*, than ſaving ſeven Sugar-Ships;" but I would know why proviſion was not made for both, Trade preſerved, and *Ireland* guarded? But it is demonſtrable we loſt our Ships for want of Guards.

Sir *Thomas Lee.*] I think myſelf as little concerned as any man. You are told, "both, *&c.* might have been taken care of;" but I think it could not. It muſt be remembered, that the *Streights* Fleet are refitting, and *Berkeley*'s in Harbour, which make up twenty-ſeven or eight, ſo that number being added to *Berkeley*'s, and thoſe deſigned for the *Indies* and *Streights*, I think the Admiralty not much aſleep in the Service.

[The Petitioners being called in, were ordered to attend on *Monday* Morning; and Captain *George Churchill*, a Member of the Houſe, had notice to attend in his Place at the ſame time.]

Thurſday, November 14.

[In a Grand Committee.] On the State of the Nation.

Mr *Howe.*] I think the Queſtion is, Whether the Merchants were loſt for want of being kept, as the Chairman ſtates it? I would conſider every part by itſelf. Firſt, that the Miſcarriages are faults, and not misfortunes. [Secondly,] how the *Toulon* Fleet came to join the *Breſt* Fleet, and, [laſtly,] how K. *James* got into *Ireland*. Not guarding the Seas has been a great fault. If the Admirals are in fault, put them out, puniſh them. When the men were to go into *Ireland*, there was nothing to tranſport them, and no proviſion for them. Name the perſons that are to blame; come to the root, and that is the way to cure the branches. Proviſions were faulty, and, in ſome places, none to be had. No

man

man can be angry with a man for getting a good place, or buying it cheap; enquire into thoſe who put them in. *Scotland* is in ill hands; in *Flanders* we pay for 10,000 men, and have not 3000. Theſe little things moved are below us. At the good Spring in *Hyde Park*, if one pipe runs muddy, then cleanſe it; but if the whole Spring runs muddy, we ſhall think ſomebody ſtirs it with a dirty ſtick. I do not like ſhooting Cannon at Sparrows.

Sir *Thomas Clarges.*] I think the Trade of the Nation is no "Sparrow." You are told of a 10 *l.* Convoy, *&c.* is that nothing? I know no greater offence in the Government than raiſing Money on the ſubject; it is an obſtruction of Trade, and a great Grievance, and we muſt look for a Remedy. The great end of enquiry into theſe matters, is to prevent coming into them again. I move, That the Queſtion may be, "That the not guarding the Seas, is an obſtruction of Trade, and a Grievance to the Nation."

Sir *Joſeph Tredenham.*] I think nothing will more ſatisfy the People, than to let them ſee that we do it for their benefit, that they may pay Taxes more eaſily. I move that it may be repreſented what an ill State we are in.

Sir *Thomas Clarges*] If it be a Grievance that Trade is obſtructed for want of Convoys, you ought to declare it ſo. What elſe would you redreſs? I lay no imputation on Gentlemen; I do not arraign the thing; but the Loſs of ſeven or eight veſſels is an inconſiderable thing—And you will be at the ſame paſs next year. Call it a Grievance, and put your ſtamp upon it.

Sir *Thomas Littleton.*] If you can find out perſons, puniſh them; but, in the mean time, find out the thing. When you have found out ſtations for Ships, as Merchants can beſt inform you, if you apply to the King he will remedy it, but not to pick holes in the Government.

Sir *John Guiſe.*] Do you think this will make more diſcontent in the Nation than is already? Every Sea-Port knows and ſpeaks it. I have heard, and am afraid, that when the *French* came out, ſome of ours came in. If you believe that was ſo, that your Ships were called away, and your Merchants left, you may reſolve it. I am afraid the removing thoſe Ships was the Loſs.

Col.

Col. *Birch.*] We all agree, that one ſuch a Year's War more will make an end of you. In ſhort, from one end to the other, there is no part of what we have done this Year that will ſerve our turn the next Year. 'Tis not as formerly, when care was taken to ſuppreſs that Debauchery that is now, both in Navy and Army, and till you ſuppreſs damning and ſwearing! (*He was called to name them—He replied,*) Pray name them that do not—Not to talk of ſpending 500,000 *l.* in the tail of the Year. Formerly, Merchants were hired and ſent out, whoſe intereſt it was; they paid them well, and the Sea was well guarded. They did not do as they did this Year, pack them up like herrings in a barrel; they brought the Nation to that greatneſs, that all the World durſt not look us in the face. Then Money went out carefully and regularly. Sometimes the Commiſſioners went as low as *Chatham*, and then they did more in two months than now in twelve. If this is the thing, what do you enquire after? Part with your Money, and wait better luck. That eighteen or twenty *French* Ships ſhould come from *Toulon* to *Breſt*, and nobody hear of them! Pardon that piece of ill luck in our People, to be aſleep all that while. It looks like ſomething either to weaken you, or to bring you to a Treaty with the *French*. Theſe men formerly would have been at *Corke* or *Kinſale* in all this time, and made it but an hour's work. As for the Queſtion, "That the Sea has been ill-guarded," it is part of our bad luck; but I care not much that you ſhould put it, for they tell you, "Thoſe were called back by the King's command;" but to ſend none in their place,—I believe his Majeſty a Prince of better conduct than to aver ſuch a thing. If Gentlemen agree with me, that neither our conduct, nor way of fighting, are fit to be done again next Year, we muſt have other hands next Year, elſe the game is up; had you other hands, I would give my conſent to hang good numbers. To have ſhoes made by a Joiner! Men may be gallant, but not ſkilled in ſea-matters till they know. You need not preſs Merchant-Ships; they will come in; but I will ſpeak no more of men I do not know. Had we Tarpaulins to command, we ſhould, next Year, have ſomething like ſomething.

Admiral *Ruſſel.*] I know not well where to begin. I have had the honour to be long in the Navy, which ſeems [now] charged with Ignorance, Cowardice, or Corruption. I am willing to decline that ſervice, and had I thought I could not have been ſerviceable to the Government, my own condition is ſo eaſy that I might have declined it. 'Tis ſaid, "When the *French* came out, we ran away." Theſe are hard things, and men will juſtify themſelves from this hard Imputation. We lay on the *French* Coaſt ſix weeks, and, I believe, for the moſt part, not three leagues from *Uſhant*. We lay there as long as Weather would permit. We are accuſed of "letting the *Toulon* Squadron join the *Breſt*." We had no way to know it but by Scouts. There are foggy nights, weather, and winds, that carry us eight or ten leagues from thence. Nobody that ſerved in the Fleet but was as deſirous to prevent this, as any Gentleman here. I attribute this to misfortune only. Unleſs we ſhould pull the *French* out of Port by the ears, I know not how to have fought. I do aver this, that fifteen days after we left *Breſt*, no Ship came in there. I deſire that either theſe things may be proved, or theſe reflections laid aſide.

Mr *Hampden.*] Nobody is more ready to redreſs Grievances [than I,] and I would have you take ſome way to redreſs your Grievances. I would have all perſons ſpeak without paſſion or reflections. In the Letters that were intercepted you find it ſaid, "That though it was a cold ſeaſon, yet it was like to be hot weather in this Houſe." And nothing but perſonal reflections will do it. If you go and look back to Miſcarriages, ſet your bounds how far you will go. I have never meddled with perſons in this Houſe for thirty years. If you will look back, ſay how far. I know not whether the Fleet be weak or ſtrong. That the *French* are too ſtrong, is as much the cauſe as you too weak. Who would have thought of this formerly? I ſay, this greatneſs came from the Penſioner-Parliament that ſold their Country. Their greatneſs aroſe from our Treachery. That there is Treachery now at Sea, is the complaint; the reaſon, becauſe there are too many Votes on the other ſide. Can a houſe, and a family, and all, be removed on a ſudden? There is ſomething to be indulged in this. I never had employment nor money before. I have got nothing, only

I deſire

I deſire quiet with my neighbours. I do not only ſerve the King as my Prince, but (pardon the mean expreſſion) as one whom I love. Be pleaſed to agree what you would have done, without perſonal reflection.

Col. *Auſten.*] It has been aſked, "To what time will you go back for enquiry into Miſcarriages?" It has this Anſwer; As far as the neceſſity of affairs will lead you. In a private family, if you entertain all thoſe old ſervants that have ruined you before, [what can you expect?] I remember *Howe* told you of awls and briſtles in a ſhop; you would not think a painter but a ſhoe-maker was there. If you hope for better management, theſe journeymen, and their tools too, muſt be laid aſide.

Sir *John Trevor.*] The State of the Nation you are now to conſider. Great miſmanagements have been, whether by miſtakes, misfortunes, or corruptions. We can have no remedy but from the King; therefore I would have the Houſe moved to repreſent to the King the State of the Nation; and then you may come to the Heads, and the firſt moved to be voted the firſt Head; and then, whether any thing amiſs in relation to the Government, to bring it in, whether in the diſpoſition of the Army, or the Fleet before *Breſt*; and, in the laſt place, to offer your Advice to the King how theſe things may be remedied. You need not call theſe things Grievances; they will be ſo manifeſt they will call themſelves Grievances. *Howe* would find ſomething againſt theſe perſons in the Government; but to go back and ravel into, that will never have an end. I would not be hollowed off from one thing to another. 'Tis "the preſent State of the Nation" is our buſineſs. Though we go ſeveral ways, yet all are for regulating Affairs to keep out the *French* and the *Iriſh*. Till you have Reports, from Committees, of the ſeveral Branches, I would adjourn the Debate, and make Report to the Houſe of what you have done.

Sir *Thomas Lee.*] I am unwilling that theſe things which will naturally follow ſhould be called Grievances. 'Tis as natural that Trade be obſtructed, as that you make War; and all you can do cannot prevent Ships being taken. You may ſay as well, the *French* War is a Grievance. I will not conceal faults, nor ſay there are none, but I think the Nation cannot bear the expence long. That which I move

you is to ſearch the Admiralty-books, and compute all, and then you will ſee how the Money went away. I ſtand up only that I would not have any outcry againſt the Government. That which is done could not be helped. You are at War with one Kingdom, and have another to conquer. I deſire, whatever cenſure you paſs, do it as it deſerves, when you have examined all; if you make men unable to ſerve the King, you ſtop the War. I move, That you will appoint a Committee to ſearch the Admiralty-books for their Orders, and numbers of Ships, and ſee the State of the Ships, and then give your Judgment.

Mr *Elwill.*] 'Tis a ſtrange thing we ſhould have ſo many Ships at Sea, and never meet any *French* Ships; and 'tis ſtrange doctrine to have ſo much loſs by Capers of ſix or ten guns; and if we cannot fortify ourſelves againſt Capers, how ſhall we againſt Men of War? If the Committee will enquire into the numbers of Ships for Stations, that will be your only way to ſecure Trade.

Sir *Edward Seymour.*] By the Debate of the Committee it is difficult for me to know in what manner to apply my Diſcourſe. I know not what ill-luck there is without doors, but I am ſure we have it within, when there are perſonal reflections. Our Treaſures are ſpent, and turn to little account, and thoſe Miſcarriages are repeated. 'Tis ſaid, "Our Ships are taken by Privateers, and not by Men of War." We had enough to have cleared our Coaſts, if they had been ſent out to lie in a Line of Battle. We are told, "We may repair to the Admiralty-books to be informed, *&c.*" If once we have loſs of Trade for want of Convoy—You will ſee by the Admiralty-books what Ships have been appointed for Guards. If we confirm theſe Miſcarriages, we invite the ſame to be done next year—Becauſe of the misfortune in another Government, what did it occaſion, but the loſs of that Government, and an Abdication of a King, a thing never heard of before! But you'll find that Parliament called a "Penſioner-Parliament," were enemies to *France* and Popery. I hope there are no Penſioners in this Parliament, but I am ſure it is full of Officers, and an "Officered-Parliament;" and now we ſpeak of Miſcarriages, we are told, "That is branding the Government, and reflecting;" pay your Money, and

that

that is *omnia bene.* I heard it once ſaid in the Long Parliament, by Sir *Edward Baynton*, "That he heard things that would make a cat ſpeak;" but, before God, this makes me ſpeak. I move, that you will vote, "That the not guarding the Sea is the occaſion of the decay of Trade, and loſs of Treaſure;" and then in time you may look into the Admiralty-books. As for Admiral *Ruſſel*, I believe him the laſt man that would do ill in the Navy, and the laſt man that can be reflected on.

[*Reſolved*, That it is the Opinion of this Committee, That the want of a Guard, or Convoys, for the Merchants, for the laſt Year, hath been an obſtruction of Trade, and an occaſion of great loſſes to the Nation. Which was agreed to by the Houſe.]

An Addreſs to the King was reported, *&c.*

Mr *Howe.*] The words, "Who gave directions, *&c.*" are ſaid to be a great Charge on the Sovereign—If they directed the Under-Officers, 'tis the ſame thing. You would laugh at me to take one for my Steward who has been burnt in the hand for robbery. Either let the Addreſs go, or recommit it. Several things are talked of, and the Committee will have a good account of them, if you recommit the Addreſs.

Sir *Robert Howard.*] I cannot ſit mute and not diſcharge my duty to the King and you. There comes now in the Addreſs a crowd of particulars, and you tell the King a great deal of nothing, and conclude upon nothing. A bare Addreſs from you may better reach your end. I am for recommitting this Addreſs, leaving out all the hiſtory, but only ſuch generals, as it is impoſſible but the King will underſtand you, and guide his apprehenſions; in that way it will be done to his honour. When the King has given you thoſe Rights that never Prince gave before, when that is done, that is all the King and Nation can expect from you. Recommit this Addreſs, and I hope it may have a happy effect.

Mr *Hampden.*] I am for recommitting this Addreſs, and with that direction, that it be only a Preface to your Vote. I doubt not but great Miſcarriages have been. Nobody in the Kingdom but has obſerved them, and I am of the opinion ſtill. A great houſe, when removed, is not quickly ſet in order; but we can deny no man Juſtice.

Theſe particulars are not proved; this and that has been done, and that omitted, but nobody named. I know not what to ſay to it. It is ſaid, "If it be recommitted, there will be no return of it." But there was a long Addreſs to the King for the *French* War, and you had the effects of it; you are engaged in a War, and deeply too. Let the Addreſs be ſhort, your Vote is comprehenſive enough.

Mr *Foley*.] All the particulars in *Ireland*, and the ill ſucceſs of the Fleet, theſe things are obvious, and need no proof. You deſire, "That men unſuſpected may be put in office." If the Houſe come up to that, let the Houſe give directions to the Committee, "That People, ſtrangers to the Kingdom, may not recommend perſons incapable for employment."

Mr *Garroway*.] I ſee a fatal Neceſſity of an Addreſs, but I would do it with all reſpect imaginable, but have a care of your own Honour. People will never carry on a War unleſs you take notice of Miſcarriages with all duty and tenderneſs We are his Council, and let it lie any where but here. If there be hard words in the Addreſs, mend them, but let it go on in God's name.

Sir *Chriſtopher Muſgrave*.] No Inſtructions can be given to your Committee, as moved, to enquire into particulars of *Londonderry*, &c. You order an Addreſs drawn up by your Vote, and then enquire whether it be done or not. No Parliament-man can own that, after an Order to ſend for Perſons, Papers, and Records, to know whether your Vote be true, or falſe.

Sir *Richard Temple*.] When you commit the Addreſs, they can only purſue the firſt Order, and put in execution the firſt Reſolution. The matter of the Addreſs you are never to examine, after the Reſolution of the Houſe.

Mr *Garroway*.] If the Committee has not purſued the Inſtructions of the Houſe, you may give farther Inſtructions, and 'tis regular.

Col. *Birch*.] To have the Addreſs in generals may reflect on the Houſe, as if they could not make out what they complain of. *Londonderry* is a general Head; I would have that particularized. That Blood muſt be anſwered for, when they might have relieved it the firſt day, as well as the laſt. When a victual-ſhip turned his a—e on the Boom, and broke it! That is plain, but poſſibly the firſt neglect

neglect of *Ireland* is not ſo plain. Recommit it on the Debate of the Houſe*.

Friday, November 15.

Debate on disfranchiſing the Borough of *Stockbridge* for Bribery and Corruption †.

Sir *William Williams.*] For us to quarrel with our own Elections, who ſerve for Boroughs, and to add the Boroughs to Counties, is a matter of great weight, and deſerves conſideration. If the Conſtitution had been ſo from the beginning, much might be ſaid for it. I hope, at this time of day, we ſhall not alter the Conſtitution of *England.* You are a wiſe Parliament, and this is a thing of the firſt impreſſion. You break the ice by this, and give a handle to throw Boroughs into Counties; and another Parliament may throw Counties into Boroughs. I move, That you will adjourn the Debare.

Sir *Edward Seymour.*] I am very tender in any new propoſal, that changes the Order of your Conſtitution. The beſt way to preſerve it is to put it upon a right foot. That one of the third parts of the State ſhould alter any thing of the whole, is ſtrange. But Gentlemen forget their Conſtitution of Knights, Citizens, and Burgeſſes! Burgeſſes are for Manufactures, and other advantages; they may preſent you with what may increaſe them. Inſtead of giving Money to be choſen, you would find it otherwiſe, when Boroughs ſhall give wages. Is that the guide of the Legiſlature? The conſequence of that will be, the other Boroughs will be terrified. If men muſt buy to come hither, they will ſell when they come here. This Borough paid but nine Pound, the laſt Tax, to the Government.

* There is no mention made of this Debate in the Journal.

† It appeared, on the Report from the Committee, that both the ſitting Member, (Mr *William Montagu*) and the Petitioner (Mr *Strode*) had been guilty of Bribery; and thereupon the opinion of the Committee (with which the Houſe agreed) was, "That neither of them was duly elected, and that the Election was void." The Bailiff of *Stockbridge*, and three more, for giving and taking of Bribes, were ordered into Cuſtody of the Serjeant; but the Queſtion for diſabling Mr *Montagu* from being elected a Burgeſs for that Borough in the preſent Parliament paſſed in the Negative, 158 to 135. The Queſtion that followed, and which occaſioned the above Debate, was, "Whether the ſaid Borough ſhould be diſfranchiſed for ever hereafter from ſending Burgeſſes to Parliament; and, inſtead thereof, that two more Knights for the Shire be choſen for the County of *Southampton.*" *See the Journal.*

Mr *Hawles.*] They in this Town that have taken Bribes have offended highly. When the Long Parliament made the Government a Commonwealth, they disfranchiſed all Boroughs, and diminiſhed the numbers of Parliament-men. I think doing that would alter the Government. Therefore I would take ſome time to conſider that before I would do it.

Mr *Foley.*] This caſe is of great conſequence, and you ought to conſider of it. The Records ſhow, that, Towns have deſired to be excuſed from ſending up Burgeſſes by reaſon of their poverty, not [being] able to pay wages. Suppoſe you ſuſpend this Town from ſending Burgeſſes till they have got a better body of men to elect—I would conſider it.

Sir *John Trevor.*] I never heard of Boroughs diſſolved before. I am afraid, if this Queſtion paſs, you, Mr Speaker, and I, ſhall ſit no more in that Chair. I have the honour to ſerve for a Borough in *Devonſhire* (*Beeralſton*) for which I am obliged to a Member of the Houſe, (*Maynard*) and to the Gentlemen of that Country. If you break the ancient Conſtitution of Elections, I know not the conſequence. If the offence of this Borough be Corruption, it is the higheſt. That Boroughs have, upon their own deſire, been exempted, there are a great many Precedents. In the Long Parliament many Boroughs were revived. This Houſe voted it a Franchiſe, and not forfeited by diſuſage, being inherent in the body of the People, declared upon a conteſt betwixt the King and the Parliament in 1641, and many wiſe men were in that Parliament. The ſecurity of the Nation was ever thought in the mixture of this Houſe. What ſhall [then] become of Merchants, to inform you of Trade? The Houſe ſtands upon ancient Conſtitutions, and I hope you will not remove old Land-marks.

Mr *Finch.*] Though this is a poor Borough, and Bribery has been found in the Election of Members, yet the disfranchiſing of it carries a great conſequence. This is not the firſt poor Borough guilty of Bribery; but it happens to be firſt queſtioned; and ſhall all the poor Boroughs be disfranchiſed, becauſe this poor Borough has been guilty of Corruption? At *Weſtbury*, formerly, there was Bribery, and the Mayor was fined; had there been

reaſon

reaſon for it, it would have been disfranchiſed. Before you make this firſt ſtep, pray conſider of it till *Monday*.

[Which was ordered.]

Saturday, November 16.

On the Defect of Ordnance, *&c.*

Sir *Henry Goodrick.*] You have been upon the State of the Nation. I am to acquaint you with that which admits no delay, and if not ſpeedily taken care of, no man in *England* is ſafe. With the King's leave (I durſt not elſe) I muſt acquaint you, that there is a Petition to the Office of Ordnance from men of great quality and eſteem, from all the Powder-makers of *England*, (I do not charge this upon any particular perſon, but I hope you will not let the King want) from the Gun-ſmiths, the Ironmongers, the Salt-petre men, Gun-powder men, Match-makers, *&c.* [deſiring to be furniſhed with Moneys to ſupport their credit.] The Board of Ordnance has not been deficient, but the King's ſervice cannot be purſued without your Aſſiſtanee. Thoſe Powder-makers who belong to the ſeveral Countries [have made] 24,000 barrels, of which a great deal is loſt and ſpent. You cannot depend upon more than 600 barrels, all the work ſtanding ſtill. They want but one ſingle Vote of encouragement. You want all this to ſet out your Men of War. I ſee an honourable Gentleman who can tell you how thoſe guns have been directed. It is of great importance; the Petition is from men of great credit—The Store is ſo low, there is not above thirty Ton of Brimſtone. The Merchants have ſent word to the Office of Ordnance, that they will have 20 *l.* a Ton; and now they refuſe to enter into any Contract at all; without ſomething of your encouragement, 'twill be loſt. I move you for a ſpecial Committee to enquire, and a Vote for encouragement.

Sir *John Guiſe.*] I now hear what I have ſeen a good while. You give Money for the War, and you know not whither it goes. If to the Navy you transfer credit, look where you will, you find it not diſpoſed as you intend it. The beſt thing you can do, is not to ſee your Money diverted.

diverted. I hope you will give ſome encouragement to theſe men, and appoint a Committee to know the State of the Account of the Nation, and you will ſee thoſe that are honeſt.

Mr *Hampden*] I agree with the premiſes of that Gentleman, but not the concluſions. Your Money has not been diverted from the Navy, Army, nor Ordnance. The King has not received by 150,000 *l.* of what you have appropriated. If you enter into a War, and your Money does not anſwer, you cannot be ſerved. If you appropriate the Money, I hope it will not be to all the uſes, for then the Offices muſt ſtand ſtill. If it has been embezzled in Muſters, enquire into it. Suppoſe now a great deal of Money is wanted at the Ordnance, there is 25,000 *l.* laid out upon Salt-Petre, if this Money has been diverted; if Soldiers had robbed and ſtole, and entered upon Gentlemens Eſtates for want of Money—I can make out that many a 10,000 *l.* is come ſhort of what you have given.

Mr *Garroway.*] I did not expect any thing of this, this day. When we computed the charge of the War, we did include the Office of Ordnance, and now they cannot carry on the War without more Money. There were Stores in the Office, and we have had no fight. I have heard of debts upon an old foot of account, I would know whether this is upon the new or old account.

Sir *Henry Goodrick.*] The Office of Ordnance has avoided all manner of account of charge. All this now demanded is made within the compaſs of one year, there has been ſuch extraordinary emption ſince. There is no old debt at all of Sir *Thomas Chichley*'s time, but this is for Stores actually ſince 'twas in this King's Service. The Office of Ordnance has not failed in aſking, nor the Treaſury in giving.

Sir *Thomas Clarges.*] I take the public Revenue to be 1,900,000 *l. per ann.* You have paſſed a Vote for 600,000 *l. per ann.* for the Civil Liſt, but it cannot appear to be above 300,000 *l.* in time of Peace, underſtanding, in time of War, all that can be ſpared out of the Revenue to the public intereſt of the Kingdom. I think it very extraordinary that the Ordnance ſhould make theſe Reports here; it is to the Treaſury they ought to apply. Here is a Bill for a Gooſe, and a Bill for a Gander. Common Fame ſays, the Army is not paid, nor the Fleet,

Fleet, only Subſiſtence-Money. They cannot at *Plymouth* ſhip above half the Companies. It is ſaid, the *Dutch* Officers are paid, and the *Engliſh* not paid, and for ſome months behind-hand. This is making us Commiſſioners of Accounts, by bringing theſe Accounts to us. We have loſt great opportunities in *Ireland*; I hope they will give you a better account.

Sir *Edward Seymour*.] Whether Money has been diverted, or miſapplied, this is matter of fact; the Seamen are not paid, and the Office of Ordnance is in a miſerable condition. I will tell you this for matter of fact, and lay it before you, and I will undertake to make it out upon undeniable Records; that in *January* laſt, all the Stores of the Ordnance and Navy were fully provided, yet remaining in the Office of the Ordnance to the value of a Million. I would know where the expence has been; no occaſion of conſumption, there muſt be a fault ſomewhere.

Col. *Auſten*.] The point of fact before you is a defect of the Ordnance, and is there not a neceſſity to ſupply that defect, to give credit, and enquire into faults afterwards?

Sir *Thomas Lee*.] I find one Office draws on another. Gentlemen will ſee, by the accounts of the Treaſury, that the Seamen cannot be paid. 400,000 *l*. has been paid to the Navy, but that is from the laſt of *December*. I do not think it proper, as the King's Officer, to complain without command, or direction, from the King; I am here as a Member of Parliament. You will find, upon enquiry, how little came in of the Money you gave.

Sir *Henry Capel*.] I know not well the drift of this Debate. I would gladly have the Revenue made out 1,900,000 *l*. *per ann*. The Exciſe is to pay a conſiderable Sum of the Prince of *Orange*'s Money. Till you ſee the Accounts and the Vouchers, 'tis a hard thing to ſay, "That my Steward has embezzled my Money." How far *Guiſe*'s Abilities are in Accounts, I know not; but this may ſtartle a man, till he ſees the nature of the Accounts. I hope every body, hand in hand, will be as thrifty as they can.

Sir *John Guiſe*.] If I am the man reflected on, I am as capable of reckoning 1, 2, 3, as another man. As for Money, I would give it as ſoon as any body.

Mr *Sacheverell*.] I am ſurprized at the Motion. 1,900,000 *l*. gone, and neither the Army nor Navy paid?—

paid!—I muſt wonder how 900,000 *l.* all comes under Lord *Ranelagh*'s care; the Fleet nor the *Iriſh* Army is concerned. How can it come about that the Armies of *Holland* and *England* come to 900,000 *l*? I do not underſtand it; I deſire he would inform the Houſe of it.

Earl of *Ranelagh**.] 981,000 *l.* [has been] paid me. I ſhall explain how that Sum has been iſſued. There are four Armies in being; the *Engliſh* Army in *Holland*, the *Dutch*, and the *Engliſh*, in *England*, and the Army in *Ireland*. I have nothing to do with the *Dutch* Army, but all paſſed in my name, but was received by a *Dutchman*, Paymaſter to that Army. An account has been given to the Committee; I cannot carry all the figures in my head, but when you require it, it ſhall be done. The King paid the Arrears of the Army that came over to him from King *James*; they were 22,230 men. They went from my care to Mr *Harbord*—So that all paid me is about 360,000 *l.* I am near the matter, clearing the *Dutch* and *Engliſh* Armies. When the King came over, there was no ſtanding Privy-Seal, and ſo no legal acquittances—Though you gave much the laſt Seſſion, yet not for the Forces in *England*; for thoſe in *Holland* and *Ireland* only.

Mr *Sacheverell*.] I hope *Ranelagh* will not take it ill if I aſk him a Queſtion, or two. Whether an Army of 40,000 men may not be maintained? If it can be made out, that there never were 50,000 men, I would know, if there was not 1,400,000 *l.* ſpent, and no Army paid? Suppoſe 35,000 Foot, at 2 *l.* a head Pay, Officers and Soldiers, that is 700,000 *l.* Suppoſe there are 15,000 Horſe and Dragoons, paid them in 50 *l.* a man, and that is not above 1,500,000 *l.* The year is gone about, and the Army not paid; I would know how that comes about?

Earl of *Ranelagh*.] I hope, that, by virtue of my memory, you will not put me to give account of every foot of things. When, the laſt Seſſion, the account was called for, the charge was 1,700,000 *l. per ann.* Whether it was wrong caſt-up may be ſoon found out. Though we all know the Muſter-rolls are not complete, nor the Army

* One of the ableſt men that *Ireland* has bred, capable of all Affairs, even in the midſt of a looſe run of pleaſure, and much riot. He had the art of pleaſing Maſters of very different tempers and intereſts ſo much, that he continued above thirty years in great poſts. *Burnet*.

paid,

paid, yet all, through my Management, is paid the *Engliſh* and *Holland*.

Mr *Garroway*.] I think we cannot come to an iſſue of this at this time. As for the Accounts given you here of 35,000 Foot, and 15,000 Horſe and Dragoons, when this King came in, and King *James*'s Army was diſbanded, they had loſt 20 ****† by run-aways. How they could, before *Ireland* **** †, have ſo many men as 50,000, I think no man can make out.

Sir *Thomas Clarges*.] You are told, the Charge was 50,000 men; that number, being never here, cannot come to 1,400,000 *l*. In the time of *Cromwel*, and King *Charles* II, the eſtabliſhment of a Trooper's pay in *Ireland* was but 12 *d*. a day, and the Foot 8 *d*. In *Dublin* it was more, becauſe dear there. The Grievance to me is this; the Officers are not paid, and not clearing the Muſters is a great damage to the King. Some reflections are made on what I ſaid of the Revenue's being 1,900,000 *l*. *per ann*. I told you that loſs of Cuſtoms and defalcations were to be allowed. I will make it good upon my credit, that near that value is received—The Tax, *&c*. 800,000 *l*.

Sir *Chriſtopher Muſgrave*.] I think this is a good Account that has been given, but I would have it brought into the Houſe in writing. We have been upon a long Debate, and are coming upon a dangerous Queſtion, upon a ſudden Motion in the Houſe. I know not what times or neceſſities you are coming into, therefore I would be tender to engage in you know not what. If all things of this nature be brought hither, you will raiſe more Money than you will know how to pay. You have already voted credit, upon what you have given, for 300,000 *l*. That may give ſome credit to the Ordnance, and your Bills depending may give more.

Mr *Garroway*.] I think it is well moved not to vote on a ſudden Motion. 'Tis a dangerous Precedent to make ourſelves Accountants. You are here to compute the War in groſs; mine has no other end but to give Money for the neceſſary defence of the Kingdom. Let them compute the charge for ſo many men; if they miſpend it, let them anſwer it in God's name. I would enter upon Accounts

† *Sic Orig.*

no

no farther than to ſupply the preſent occaſion. The deeper we entered upon Accounts, the deeper was always the charge. I have ever found it.

Sir *John Trevor.*] I had rather loſe my Eſtate in *Ireland*, than have that Vote. What does the King ſtand for! And the ſeveral Offices brought hither, muſt we be the Officers of every Commiſſion?

Sir *Edward Seymour.*] You have appointed *Monday* for enquiries; I have a liſt in my hand of particulars, moſt from trading Merchants. They may be in being, and the Houſe not in being, and they feel the ſmart of it. I deſire they may be here, by Order of a Summons from this Houſe.

It was ordered accordingly.

Monday, November 18.

The Evidence of ſeveral Maſters of Ships againſt Capt. *Churchill*, for taking Money for Convoys, was heard at the Bar, *viz.* "That he would not ſtir without it; and as for thoſe who would give no Money, he took their men from aboard, and preſſed them for his own Ship."

Capt. *Churchill.*] I find a Complaint againſt me, *&c.* I deny that I ever refuſed to convoy. At the firſt meeting, they agreed to make a purſe. If I have given offence, I am extremely ſorry for it, and ſhall do it no more. As for preſſing the men, I took none but what I had extreme neceſſity for. If I took ſo many as is ſaid, they could not have ſailed with me. I am ſorry I have given offence, and I will never do any thing to diſpleaſe this Houſe. Convoy-money has been anciently practiſed.—I was forced from them by weather, and when I came to the *Downs*, the builders of the Ship wondered ſhe could ſwim.

Mr *Papillon*] I would have Capt. *Paris* called in, who would not tell you the truth. If a witneſs be dealt with, and minces the matter, you will never have truth.

Sir *Robert Rich.*] I have heard the whole matter, and as for calling in the Captain, you need not. Your Member (*Churchill*) has owned the Money.

Capt. *Churchill.*] I confeſs, I convoyed twenty-two of forty-four, and if I had forced Money from one, I might have

have done it from others, and it was a voluntary gift from them. I acknowlege I received 150 guineas as a voluntary gift from them; and I compelled no man.

Mr *Papillon.*] This is a thing of great conſequence. I would not have this Captain diſcouraged, nor the Merchants abuſed; if they will give a Gratuity, 'tis not extorted, but voluntary. Capt. *Churchill* told them, "If you will make it worth my while, I will go with you;" of this there are three or four Witneſſes. If they had not made up this Money, they muſt have lain by, ('twas a bargain,) their men were taken from them; if you do not ſomething exemplary in this, you will ruin both Seamen and Merchants.

Admiral *Ruſſel.*] Nobody more deſires that Criminals ſhould be puniſhed than myſelf. I know Capt. *Churchill* to be zealous for the Government. The thing, as it is alleged, appears a heinous crime. If theſe Merchants will run preſently, and make Subſcriptions, indeed I do not think Capt. *Churchill* ſo much to blame. If he does not appear to be a great Criminal, for his deſert, and what he may do for the future, I hope you will inflict as moderate a puniſhment as you can.

Mr *Smith.*] I am ſenſible this Gentleman has done you very good ſervice, and is hearty for the Government. This ſeems not to be ſo clear for your cenſure. He has made a modeſt confeſſion of his fault, and if you can prevent this for the future, I would deal moderately with this Gentleman.

Sir *William Williams.*] I cannot agree to paſs this over without a Queſtion, nor would I deal ſeverely with your Member. The thing has been fully proved at the Bar. Some call it "a free-will offering, or preſent." I would come to this Reſolution, "That taking of Money for Convoys, by Men of War, is a Grievance."

Sir *Chriſtopher Muſgrave.*] I think your honour is concerned, for Captain *Paris* has prevaricated with you, and you will loſe your Authority if you ſuffer it.

Sir *John Guiſe.*] That which I ſuſpected to be ſo heinous in this caſe, I hear nothing of. If there had been refuſing of ſailing till the Money was paid—*(He was taken down to Order.)*

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Captain *Paris* was called in.

Capt. *Paris.*] I have now recollected myſelf. I petitioned Lord *Torrington* for a Convoy; who anſwered, "If we would go to *Torbay*, he would take care of us." Capt. *Churchill* came, in the *Pendennis*: I aſked him, "Whether he was ordered for our Convoy?" He ſaid, "He was bound for the Channel, but if it would be made worth his while, he would convoy us."

Capt. *Hill*] *Paris* put the Queſtion to *Churchill*, who ſaid, "He had no Order to convoy us." Twenty-two ſail of us ſubſcribed 201 *l.* which he had. "If it was worth his while (he ſaid) he would go to the *Downs* with us."

Capt. *Churchill.*] The offers from Capt. *Hill* came a week after, "That if I would leave the Fleet, and convoy them, they would make the 200 *l.* 400 guineas." This, I hope, will, in ſome meaſure, juſtify me to the Houſe, that I am not ſo very covetous.

Mr *Coningſby.*] This is a fault, and a great one in *Churchill*, but I believe it an univerſal one; but becauſe others have not been ſo modeſt as your Member, I would prevent it for the future.

Sir *Edw. Seymour.*] I do not at all approve that Method to paſs by your Judgment upon thoſe you have heard, and puniſh thoſe you have not heard. You have heard the Examination, and an inſtance of your Diſcipline and Government of the Navy. I ſhall only ſay this, that this Affair now coming before you, and influencing the whole matter of Trade, I do not wonder that it is not more plainly proved, but that it is ſo much proved. 'Tis a hard thing to bring men before you with Accuſations of this kind, and if you leave them in a condition to be worried by thoſe they accuſe, you will never have more. Theſe Miſcarriages, ariſing from particular perſons, endanger the Government. They can get no Convoy from us, and they apply to the *Dutch*. When a Gentleman came that had the reputation of a Convoy, he was aſked, "If he came to convoy them?" "No, he had liberty to go where he pleaſed, but make it worth his while and he would go with them;" and you ſee what that "while" was; it was 250 *l.* Till then they could get no ſailing orders. He was directed for Convoy, but he would not till it was for his advantage. Some of the Ships would not ſubſcribe, and he took their men from them; and after they had ſent

their

their Money, they were returned them again. Taking Money for Convoys has been a practice, but never came into this Houſe before; and if now you take no notice of it, you authorize and allow it. Firſt, take notice of thoſe that informed you, and prevent the man from worrying. That others have done it, is no rule for you; neither this Gentleman's merits, nor any other's, are ſo great that you ſhould loſe your Trade for them. After all, this is before you: If you make not perſons tremble, and, when proved, let it paſs away, nobody, hereafter, will be afraid to do the ſame again. If you reprimand Captain *Churchill* only, you confirm the thing; but, whatever Reſolution you will take to prevent it for the future, you ſhall have my Vote.

Col. *Granville.*] I hope you will not puniſh a thing not declared a crime. I ſhould have thought myſelf ill uſed if I had it not. I have never got by the Sea ſo much as my pay. I move, That you'll vote this illegal, and admoniſh the Captain, in his place, that he will do ſo no more.

Sir *Chriſtopher Muſgrave.*] I hear, from under the Gallery, what I heard not before, "That all Convoys have taken Money, and thought themſelves ill uſed if not gratified." Preſents have been given to Captains after they have convoyed Ships; but this Gentleman was ſent down for a Convoy. He tells you, "That's a miſtake of making it worth his while;" but one of the Captains tells you, "They could not have a Convoy without Money, and then they ſhould have ſailing Orders." I have not heard of ſuch a thing; if this be the practice of the Fleet, you ought to remedy it. Taking Money thus was ever a crime in this Houſe; and why ſhould this Perſon, being a Member of the Houſe, fare better than thoſe that are not? If you make a Law for this, they will ſay there was no Law before; Perſons will not come before you; they will be afraid. If you think this will give ſatisfaction to the Nation—If not, I am for puniſhing.

Col. *Birch.*] You are now upon giving Judgment that may be exemplary to the Nation. I do deſire, in all theſe Caſes, that ſomething within may not give me the lye. I am for the ſevereſt puniſhment. About nine years ago, in the Long Parliament, (a time ſuppoſed none of the

beſt) that horrible imprecation was made uſe of in the Houſe, of "God damn me!" (Sir *Robert Cann* *) to bring people to that degree of Prophaneneſs to bring in Popery at laſt—The Caſe was proved with us then, and with you now. There wanted nothing but to ſmooth over this horrid Oath; but, inſtead of that, the Houſe thought fit to give a ſtop to that growing miſchief; they brought that Member on his Knees, and ſent him to the *Tower*. After ſome time he petitioned, and was brought hither, and expelled the Houſe. I wonder how this complaint came ſo clearly before; but put a ſtop to this buſineſs. I challenge any man to give an inſtance where Convoy-Money was paid before-hand; but for Convoys to contract before-hand!—Theſe things being ſo plain, I would do by this Gentleman ſo as I hope you may never have occaſion to hear of it in this place any more.

Mr *Garroway*.] I am ſorry for this. I wiſh well to the Nation, though I have but little time to enjoy it. You are preſſed for a Vote of deteſtation of this Crime; but firſt paſs a Vote. I remember a perſon (*Aſhburnham*,) for preſſing the King about a Petition, about *French* Wine, who which he treated for a ſmall ſum 400*l*. he was turned out of the Houſe †. I wiſh I had never heard of this here, but, now it is a thing before you, in Judgment; but, if becauſe it was not a Crime before, you paſs no Judgment upon it, I look upon all theſe poor men that complain, as crucified. I have ſaid before, to ſome of them on the like occaſions, "You will be turned out of your Offices for it." I know not what to move you, but ſome exemplary thing you ought to do.

Mr *Foley*.] This matter is of great moment to do juſtice home. You have two Witneſſes, that, on the Compoſition, they returned the preſſed men back again. If you paſs this by, it is to no purpoſe to talk of Miſcarriages in the Navy. I am ſorry this Gentleman is a Member; becauſe of the Juſtice of the Houſe, you are the more concerned, and you can do no leſs than ſend him to the *Tower*.

Sir *Edward Seymour*.] I am for propoſing a Queſtion, ſeeing the Chair propoſes none; *viz*. "To declare that Money extorted, from the Merchants, for Convoy is illegal,

* *See Vol.* VII. *p.* 383-5. † *See Vol.* I. *p.* 46.

and

and does obſtruct Trade." Next, "Whether Captain *Churchill* be guilty of extorting Money? And next, "What puniſhment you will inflict on him?"

Reſolved, That the requiring or receiving Money for Convoys is illegal, oppreſſive to Merchants, and deſtructive to Trade.

Sir *William Williams*.] I cannot agree, as is moved, "That *Churchill* only make ſubmiſſion." It will require a great deal of Examination; if you will lay a ſevere puniſhment upon him, it will diſcourage him and many more. I would adjourn the Debate for a week.

Reſolved, That Capt. *Churchill* is guilty of requiring and receiving Money for Convoys.

Sir *William Leveſon Gower*.] I will never make Apologies for any man that has robbed by Sea or Land. I hope an ounce of Miſdemeanour will never weigh down a pound of Merit. I would have him reprimanded only in his Place.

Sir *Edward Seymour*.] Here is a perſon has broken your Laws, oppreſſed your Trade, and you are now going to apply Puniſhment. It is propoſed to give him a reprimand in his Place, and the conſequence will be, he will do ſo no more; and, if he does, he will not give an Acquittance for the Money. You cannot, in juſtice, puniſh any man more, if you puniſh not this man. It is ſaid, "He is a Gentleman of great Merit;" but no man of the Fleet can come before you, but as much may be ſaid for him. But who would not, for 200 *l.* but have a reprimand here, and go do the ſame thing again? But you are to do ſomething more, in conſideration of your own juſtice, and the men that brought this before you. Will you leave theſe men to be worried by this man? Send him to the *Tower*, and declare him not capable to ſerve at Sea again.

Mr *Papillon*.] As to reſtitution of the Money, it muſt be a greater ſum than this 200 *l.* It muſt be all that has been taken.

Sir *Chriſtopher Muſgrave*.] You were told by one, "He was unwilling he ſhould come upon his knees, and yet to be ſent to the *Tower*." If ſent to the *Tower*, he muſt be upon his knees at the Bar. Lord *Devonſhire* was ſent to the *Tower* *, and not upon his knees. Will that ſound

* When he was Lord *Cavendiſh*. *See Vol.* III. *p.* 316.

well, to be reprimanded only in his Place? I would ſend this Gentleman to the *Tower*, and order him to make reſtitution. Elſe you will not give ſatisfaction to the people injured.

Sir *Thomas Lee.*] There is nothing ſo eſſential as the reputation of the Houſe, that you will do right to all People, and ſee that none have wrong. The Exerciſe of your Power ſhould be ſo uſed, as not always to exert itſelf to extremity. As for preſents, every body takes them, but you are doing this for a Precedent, and I hope it will be remedied for the future. There are great expectations what you will do in this. For length of time in the *Tower* makes the Puniſhment. There have been Precedents, in theſe Caſes, of bringing to the Bar; but I am for the new Precedent of Lord *Devonſhire*, to commit this Gentleman to the *Tower*, and not bring him to the Bar. Neither would I encourage complaint by over-doing this. This Gentleman would rather, I believe, fight three battles with the *French*, than one with the Houſe of Commons. I move, That he may be ſent to the *Tower*.

Reſolved, That Captain *Churchill* be committed to the *Tower*.

Tueſday, November 19.

Dr *Walker* came to the Houſe to receive their Thanks for the ſervice he did at *Londonderry* *.

The Speaker gives an Account of a Precedent, in 1607, *of a* Scotch *Gentleman that gave ſome Account to the Houſe, Sir* William Seaton, *who had a Chair ſet for him* †.

Mr *Garroway.*] That was in reſpect to the *Scotch* Nation, and King *James*, then newly come in. It is honour enough to come to your Bar, to receive the thanks of

* After Col. *Lundy*, the Governor, and the Council of War, had reſolved to abandon the place, the Townſmen choſe this Mr *Walker*, (who was Rector of *Donaghmore*, and had raiſed a Regiment for the defence of the Proteſtants) together with Major *Baker*, Joint-Governors; and, tho' the place was very ill fortified, and their cannon, which did not exceed twenty pieces, were wretchedly mounted, tho' they had no Engineer to direct their operations, and had a very few horſe, with a garriſon unacquainted with military operations, and ſo deſtitute of proviſions, that at laſt even the moſt loathſome food began to fail, they defended the Town againſt all the efforts of a formidable Army, commanded by King *James* in perſon, till it was relieved with troops and proviſions, by Gen. *Kirk*. Mr *Walker*, on his coming to *England*, received from King *William* a reward of 5000 *l.* and a promiſe of farther favour; but his military genius ſtill prevailing, he attended his Royal Maſter to the Battle of the *Boyne*, and there loſt his life.

† This had been voted him the day before.

the

the Houſe, and I would do no more now, nor make any new Precedent.

Sir *Thomas Lee.*] I am afraid ſome Gentlemen make too light of Form; the Dignity of the Houſe muſt be preſerved. You ſit covered in a Committee of Lords and Commons, but not at a Conference. Sir *John Grenville*, when he brought a very welcome Meſſage to the Houſe from *Charles* II, from *Breda*, delivered it at the Bar, and it was not thought below his dignity; and Sir *Samuel Barnardiſton*, when he defended the Cauſe of the original Cauſes in the Lords Houſe, had your Thanks given him at the Bar. You muſt have reſpect to the Dignity of the Houſe, elſe you will bring it to nothing.

Dr *Walker*, at the Bar, ſtanding.

The Speaker.] Dr *Walker*, the Houſe has received a Petition from the Widows and Orphans of [thoſe that were ſlain, and died in the ſiege of] *Londonderry*, and has thought fit to recommend their Petition to the King, that he would pleaſe to give them 10,000 *l.* [for the eaſe of their preſent ſufferings.] They [likewiſe] take notice of the extraordinary ſervice you have done to their Majeſties, and to *England* and *Ireland*, in the defence of *Londonderry*; and eſpecially in that you undertook it when thoſe who ſhould have done their duty deſerted it; and they have commanded me to give you the Thanks of the Houſe. [And they would have you give the Thanks of the Houſe to all thoſe that were in that Service.]

Dr *Walker.*] Thoſe poor Creatures, I am aſſured, will be very thankful for the honour you have done them. For the Service we have done, we do not deſerve the honour you have done us. We ſhall at all times be ready with our lives to maintain the Proteſtant Religion, and the Government. [*And withdrew.*]

A Petition from the *Jews* was delivered by Mr *Paul Foley**.

Sir *Thomas Clarges.*] I remember a Proteſtant Lady in *France*, who, being ſick, and peſtered by *Engliſh* Prieſts, ſent for one of our Miniſters, and he put them out. Our Ambaſſador had audience of the *French* King, and told him, "That they were Subjects of the King of *England*, and ought not to be moleſted." The *French* King replied,

* There is no mention of this Petition, or Debate, in the Journal.

"While

" While they are here, they are my Subjects, and under my Protection."

Mr *Hampden*, jun.] I hear ſome of theſe *Jews* are naturalized, but I would know how they come to be naturalized? If a *Jew* kill a man, or a man a *Jew*, he will be hanged. There is a great deal of difference betwixt being ſubject to the Laws, and enjoying the benefit of the Laws.

Sir *Thomas Lee.*] Conſider the conſequence of receiving this Petition from the *Jews*. It is directly againſt an Aid; " They deſire not to be taxed, *&c.*" Pray let not ſuch Petitions be received. You will not receive it from others, pray begin not with the *Jews*.

Mr *Hampden*, jun] My knowlege reaches not to that doctrine of receiving no Petition againſt an Aid; it is not for the Honour of the Houſe to receive ſuch a Petition; it is a new way to me, that an Aid ſhould be petitioned againſt in granting. I never ſaw ſuch a Petition, nor ſuch Reaſons to the contrary. Thoſe *Jews* are Subjects, in a large Senſe, and ſince it is urged as the right of Subjects to petition, let them not have more right than the reſt of Subjects.

Mr *Foley.*] I think, that, for the Honour of the Houſe, you are to hear what they will ſay. Where you lay a general Tax on a whole Kingdom, you can receive no Petition againſt it, becauſe all are repreſented here, but when there is a particular Tax on Men, they may petition.

The Speaker.] I never knew a Petition againſt a Bill before the Houſe was ſeized of it.

Sir *Richard Temple.*] You have heard Petitions againſt a Tax on Sugar and Tobacco, but they muſt not take notice of every Vote to ground a Petition upon, that is not Parliamentary.

Mr *Hampden.*] You have thought it neceſſary that the Money ſhould be raiſed. I have a Bill in my hand; pray let it be read.

[*November* 20, 21, and 22, Omitted.]

Saturday, November 23.

In a Grand Committee. On the State of the Nation.

[Mr *Grey* in the Chair.]

Mr *Papillon.*] Two things we are to conſider; how the Money you have given has been ſpent, and how the Army and

and Navy have had no more. But of moſt effect is to conſider "The State of the Nation," to provide for the future. A great deal of Money has been given, but has not anſwered the charge—We have a War in *Ireland*, and the *French* upon our Coaſt. I would provide ſuitable proviſion for all.

Sir *Robert Howard*] I ſhould be glad to be inſtructed by Gentlemen to come to particulars. Melancholy Complaints will do us no ſervice, and, ſeconded with ſighs, tend to no other effect, than that "the Regency" was good advice. I will let generals paſs, and offer particular remedy, which calls upon you for redreſs; that is, in the Caſe of your Forces. As you have heard, on the Muſter-Rolls, there has been ſeventy men [in a Company,] and it is well if there be forty—Now Money muſt be conſidered, that it may be to ſave you. If 10,000 men be pretended in *Holland*, and there are not 4,000—The buſineſs is to make an end of the War, and not to teach the *Iriſh* to fight by Land, as we have taught the *French* to fight by Sea. Therefore I move you to make a preſent inſpection into this, and a ſtrict one. I would have Members of the Houſe employed, both in *Ireland*, and here, and every where, that by this deceit we be not brought to ruin. If Officers be underpaid, remedy that. What I move, is, to ſend preſently into *Ireland*—The buſineſs of Popery is now out of doors. King *William* is "King of this People, and this People's King." This muſt be preſently inſpected.

Sir *Thomas Clarges.*] A great part of this Motion has been already anſwered, of ſending Perſons into *Ireland*; ſo far, I think, we are on the way. I doubt not but the King, for his own preſervation, as well as ours, will not pay men in chimæra, but certain; as you give Money to ſupport the Government, to ſave all unneceſſary expence. Therefore I would addreſs the King to take away that Charge in *Holland* of ****† a month. By the beſt Enquiry I can make, we are under no obligation by Alliances.

Mr *Godolphin.*] What is offered, is proper in due time; but if the men ſtep aſhore before the Ship be at anchor, ſhe will be apt to run a-drift. Before I come to particulars, I ſhall offer ſomething general abroad and at home. In re-

† *Sic Orig.*

ſpect to the Government, and the People, there muſt be an Aid to carry on the War we are engaged in, not by a ſhort Act to collect Money only, but ſomething to rely on for your ſecurity. For home, I would conſider Religion and Trade. The Courts of Juſtice are well filled, and that is one Remedy. For Trade, there is little but what ſupplies your Enemies to your diſadvantage. For Religion, I think there is more than enough. But upon all accounts, that concern Religion, I think the Church of *England* too much diſcountenanced, who have ſupported you by their learned Writings. I would do ſomething to enlarge on Proteſtant bottoms; but I will poſtpone this conſideration till a more convenient Seaſon. For Trade, whilſt you are defending yourſelves, the common Enemy runs away with your Trade. For Grievances, as the Charters, *&c.* I am of the ſame opinion I was of the laſt Seſſion, for an Act of Indemnity from the King, to give him all the Grace of it, to unite againſt the common Enemy. Your Enemies are either of *France*, or from *France*. The *French* King's Revenue is 116,000,000 of livres, and he has 200,000 men in pay; his Kingdom well fortified; his Arſenals well ſtored, and a great Force by Sea; they have met the *Engliſh* and *Dutch* Fleets in conjunction. It behoves the Houſe to think how we ſhall deal with ſuch a formidable Enemy, to conſider our Allies, and to know how far *Holland*, in particular, will go to ſuppreſs this Navy of *France*. I remember the *Pyrenean* Treaty; what will it ſignify to give up *Burgundy*, and *Luxembourg*, *&c?* I think we are not ſecure unleſs we deſtroy the *French* Navy. I move, therefore, to know how far *Holland* will join in ſuppreſſing the power of *France*.

Sir *John Guiſe*.] One of the *Dutch* Ambaſſadors told me, "That the *Dutch* would pawn their Shirts to go on with the War." I am not for going back therefore. Certainly it is natural for you to conſider from whence the ill Government came, and to prevent it for the future; and, I hope, we may raiſe the *Engliſh* Nation, and the Reputation of it, again. If there be ill management, it muſt be from thoſe in Employment. Either they muſt manage no more, and you muſt apply to the King to take care of it, or take care of it yourſelves, by yourſelves, by the

the King's permiſſion. My Motion is, to conſider and report what is the occaſion of theſe Miſcarriages, and calculate what are the Charges of your Land-Forces, and that you will employ People of your own, if you ſee occaſion, to depend upon.

Sir *Robert Napier gave the Houſe an Account of a Letter he had received* *.

Mr *Hampden*, ſen.] This Information is not impoſſible, in nature, to be true, but morally impoſſible. I cannot believe ſo much barbariſm in men, ſo formally to undertake to deſtroy ſo many lives. Now, whether you will call in theſe men? Pray go on. Is this worth your Curioſity? Would you have People abroad make ſport with you, with a ſtory of garbage? I doubt this will be cenſured. Pray go on; chuſe your point what you will, and let this Letter be for the Enquiry of a private Committee, and leave not the Conſideration of the Nation.

Sir *William Leveſon Gower*] I would examine theſe men that gave this Information; if they abuſe the Houſe, puniſh them for Example's ſake, but hear them.

Sir *Thomas Lee*.] It is for your ſervice, very much, to have theſe men called in. If they have told you matter of fact, and do not make it appear—Such falſe Reports as theſe may be ſtudiouſly raiſed; if they prove true, thoſe that were the Authors ought to have the laſt Puniſhment. But I take not the Committee of the whole Houſe to have Power to ſend for Perſons, Papers, and Records. I do not remember that a Grand Committee, without Power from the Houſe, has ſent for Perſons, Papers, and Records, in all my Obſervation. I would have the Speaker take the Chair.

Mr *Foley*.] As yet this is but hearſay, but a Committee may enquire into it. The Victual that went with the Ships was good, but that ſent afterwards, though ſome laughed at it, was given to dogs, and they died immediately. I believe there is ſomething in this, and it ought to be examined; and I deſire you will do it.

* This Letter was from *Plymouth*, to one *Rice*, from his ſon there, giving an account of great abuſes diſcovered in the victuals and beer provided for the Fleet lying there, and ready to go forth. And the ſaid *Rice*, being called in to the Bar, to own the ſaid Letter, owned the receipt of it accordingly. Several Members likewiſe atteſted the ſame, *&c. See the Journal.*

Col. *Gran-*

Col. *Granville.*] The Beer, on board the Ships, proved very ill, and, upon enquiry, it ſtunk confoundedly. Lord *Torrington* ſaid, "If it was what uſed to be Beer, if it was boiled, it would come to itſelf again, and turn into Beer;" and it was ſo, but ſtill ſtunk, and ſeemed to be garbage put in the Veſſels.

Sir *Peter Colleton.*] I hope you will do ſomething in this matter. One Ship came into *Torbay*, out of the *Indies*; as ſoon as they uſed this Victual out of theſe Ships, all their men fell ſick. I am fully convinced that your men have been ill-uſed by the Victuallers, and, unleſs it be remedied, you will have no Fleet next year.

Mr *Papillon.*] The Purſer of the Ship knows from what Brewer, and what Victualler, they ſend in the Victuals, and ſo you may find it.

Col. *Granville.*] From whence good Victuals came I cannot tell, for the Fleet had it from every place, and pray let them all anſwer for it.

Mr *Hampden.*] The Queſtion is for ſending for all the Victuallers in Cuſtody, who are; Sir *John Parſons*, Sir *Richard Haddock*, Alderman *Sturt*, and Mr *Nicholas Fenn.* It is not neceſſary for me to premiſe that I am no Advocate for theſe Victuallers. I believe the Fleet is as ill victualled as if our Enemies had done it; there are ſeveral Ships now ready to go out, ſome are fully victualled, and ſome not; they have received Money for that ſervice, and it muſt be done immediately, and if not done by theſe hands that it is now in, your ſervice muſt ſtand ſtill. The new Victuallers cannot enter till they have account of the Stores that are left. There are Orders that their Accounts be given up, and the Keys and Stores delivered in; if you ſend for all theſe Victuallers in Cuſtody, all this Service muſt now ſtand ſtill.

Mr *Coningſby.*] You are told that Lord *Berkeley*'s Squadron is ready to go for the *Eaſt Indies*; would you have them deſtroyed as the reſt were? What better Evidence would you have than what you have heard? I would ſend for them in Cuſtody.

Mr *Papillon.*] Not above a week ago I was ſent for to the King to accept of this Employment of Victualler of the Navy. I told the King, "This Affair had been neglected three Months

Months, and had been delayed ſo long that I durſt not undertake it; therefore it was my humble requeſt I might not be one of them." But the King ſaid, "He would not excuſe me." I can but ſay I can do no more than I can; but this will be taken for a great diſcouragement, to be brought into Cuſtody, before particularly charged; for men may put tricks upon the Victuallers.

Col. *Granville.*] The Complaint is ſo general, and the Seamen ſo caſt down, that, if you value not theſe Complaints, you may talk of raiſing Money, but not of raiſing Seamen. I would have them ſent for in Cuſtody, to give Account how they came by theſe ill Victuals.

Sir *Robert Rich.*] If I knew who put King *James*'s Victuallers into Office, I would ſend for them in Cuſtody alſo. Would any Gentleman take Arſenick of a Brewer that would poiſon his Family? Send for them in Cuſtody, and then enough will come in to inform you farther.

Sir *Thomas Lee.*] I think it neceſſary to give you ſome Account of this, becauſe it is ſaid, "It is now too late to change the Victuallers, and that King *James*'s Officers do now victual the Fleet." The matter is this; they have ſtayed ſo long, that it is known how late in the year the matter of the Victualling was thought of, and how late we came into the Employment; before new men could be put in, the ſummer-ſeaſon would be loſt, and there would be no Fleet; ſo that had you then changed hands, you had no time to ſpare, and the Service fell thicker and thicker every day; and, if the Victuallers had been changed, the neceſſity was ſuch there was no time to do it. I would have Gentlemen think that ſuch changes as theſe are not to be made at all times, but when the Fleet is pretty full of Victuals. Except buying Pipe-ſtaves, nothing is to be done in *Auguſt*, and it was then the King knew that what was in Stores muſt be made uſe of, or elſe all muſt ſtand ſtill. If you ſend for theſe in Cuſtody, none will undertake it.

Col. *Auſten.*] I have heard it ſaid, "There is a neceſſity to take men into Employment that are verſed in buſineſs." If theſe men are the only people that are to be employed, whither will you go next? Whatever you do with theſe men, who are ſo verſed in buſineſs, I hope you will take honeſt men in their ſtead.

Mr

Mr *Fox.*] I ſhall not be an Advocate for theſe Victuallers. I am concerned only for one of them, Sir *Richard Haddock.* I will anſwer for his ſecurity; he will not run away. He gave Mr *Fenn* 1700 *l.* for that place.

Mr *Papillon.*] You have had ſufficient ſecurity that theſe Victuallers will not run away. If any Gentleman will engage that they ſhall appear to anſwer this Charge, I think that will anſwer your end.

Sir *Edw. Seymour.*] On all Accuſations I ſhall be very tender in ſending for men in Cuſtody. But as the nature of the Queſtion is, it is abſolutely neceſſary to ſend for them in Cuſtody. The ill uſage and abuſe the Seamen have had in their Victuals, has been repreſented to you. For your reſentment of their ill uſage you can do no leſs than ſend for them. I was in hopes, when *Lee* ſtood up, that he would have told you "That there could not be ſuch Miſcarriage in the Navy, and he, of the Admiralty, be ignorant of it, that ſhould have prevented it." But, I find, the Admiralty know as little of this as they know of the ſtations of the Convoys. Had they looked over the Journals of their Office, they could not have been ignorant of this; but I fear the Commiſſioners know no Journals, but of the Houſe of Commons, and what they ſit there for.

Sir *John Guiſe.*] I am againſt names in particular. I would rather ſend for them in groſs. You cannot diſtinguiſh the Victuallers, whoſe Proviſions were amiſs. I would at them all till they can clear themſelves.

Sir *Henry Capel.*] When I heard *Parſons* named one of the Victuallers, I was amazed; but, as for *Haddock*, he is an able Seaman and a good Proteſtant. He has an Office in the Navy, but he was neither Manager nor Contractor, therefore put not him among the Brewers and Victuallers. I would be tender how we diſcourage a man that has commanded a Squadron at Sea.

Sir *Chriſtopher Muſgrave.*] I ſhall ſay nothing to the Debate, but to preſerve Orders. When it is a complicated Queſtion, then, by Order, you may divide it. When there are ſo many names, then you are to put them one by one. It was the practice lately upon the Pains and Penalties. Will you lump ſuch a Queſtion as this?

Sir *William Williams.*] Will you put the Queſtion entirely,

tirely, or upon the ſeveral perſons? When the perſons are diſtinguiſhed in the Debate, then the Queſtion is upon every ſingle perſon. This Charge I took to be a joint-Charge, a Breach of Public Truſt; it ariſes not from an Information at the Bar, but the knowlege of your Members. This is not to puniſh nor convict them, but to bring them to farther Examination, whether this was wilfully done, or by accident.

Sir *Henry Johnſon.*] I believe the Navy will ſtand ſtill without Sir *Richard Haddock*, he is a man ſo converſant in the Affairs of the Navy. You have been offered Security for his appearance. He was againſt the Diſpenſing Power, and was turned out by King *James.*

Divers Gentlemen offered Security for him, and affirmed the ſame.

Sir *Edward Seymour.*] You are on the Queſtion of ſending for *Haddock* in Cuſtody. If any one of theſe comes before you with a Title to recommend him to your favour, it is *Haddock*; yet I am for ſending for him in Cuſtody. You are not now enquiring into Mens Merit, but into Fact. He is Comptroller of the Navy, as well as Commiſſioner and Victualler, and can give you the beſt Account. But, I obſerve, it is unuſual for theſe Offices to be in one Perſon—I would ſend for him in Cuſtody.

Col. *Auſten.*] I cannot but believe him to be a perſon as worthy as he is named to be; if you cannot diſtinguiſh him here, you muſt ſend for him in Cuſtody.

Mr *Hawles.*] If you cannot diſtinguiſh him in guilt, I would diſtinguiſh him in puniſhment. I find no Evidence againſt him; but a very ill thing has been done; here are ill things done, who did it? We don't know. No perſon that did ill in the other Government can be fit to be in this. Ill things have been fully proved againſt *Parſons*, and it was ill done, after notice of this, to keep him ſtill in Employment. I move to have *Haddock* ſent for in Cuſtody, for you cannot diſtinguiſh.

Sir *William Leveſon Gower.*] Perhaps ſending for him in Cuſtody may be a favour, when you diſcharge him without his Fees, and perhaps with marks of honour too.

Mr *Charles Montagu.*] I have a fair opinion of *Haddock*, but I think it injuſtice not to ſend for him. You ſend for him as a Victualler of the Navy, but not as a Criminal.

I offer

I offer what I wiſh may be done; that, though your Vote be to ſend for him in Cuſtody, he may be ſent for till farther Order.

Mr *Boſcawen.*] I would do what in prudence may be done; inſtead of ſending for him in Cuſtody, to ſummon him to appear.

Sir *Thomas Littleton.*] I believe the great character of this man is deſerved. I think, equality of Juſtice is more in your conſideration than any thing elſe. If he appear innocent, and that his other Office took up his time, and yet he ſpent little in this—All the Victuallers are jointly accuſed, and he not in particular.

Mr *Hampden*, jun.] If you ſummon *Haddock*, it will be more for your ſervice, and you will have him before you.

Reſolved, That Sir *John Parſons*, Sir *Richard Haddock*, Alderman *Sturt*, and Mr *Nicholas Fenn*, Victuallers of the Navy, be ſent for in Cuſtody of the Serjeant.

November 25, Omitted.]

Tueſday, November 26.

Mr *Waller*, who came lately from *Ireland*, gave an Account, at the Bar, of the State of the Army in *Ireland*, and the condition of Affairs there; and then withdrew.

[Debate.]

Sir *Thomas Clarges.*] This Gentleman favoured me with a viſit, and then ſaid ſomething more particular. He ſaid, "When he went firſt over, it was ten days before *Londonderry* was relieved. There were 10,000 *Iriſh* before it defeated, and the General taken priſoner; they were in ſo great fear, they all ran away with few men of ours purſuing. He was in hopes we might march to *Dublin* to poſſeſs it. At *Cheſter* they left all their baggage-horſes; the General wondered they came not; from which a great part of the misfortune came. When he came back to *Cheſter*, he aſked, "Why the horſes ſtayed ſo late?" They told him, "It was for the beſt profit perſons could make to put them to graſs." As for the ſickneſs, it was wholly amongſt the *Engliſh* foot. One Regiment lay amongſt the *Dutch* in their huts; their Officers looked upon their Soldiers as their children, and would ſee them make their huts, pave

pave them, and lay freſh ſtraw; in the whole *Dutch* Camp ſcarce two died." By what I apprehend from the diſcourſe of this Gentleman, we loſt ſo many men from the negligence of the Officers. There was great defect of cloaths; all that were well cloathed were in health.

Col. *Birch.*] I find, this perſon has taken exact notice of things, and, I believe, can give you a farther account. I would know, at what ſet time the Soldiers are paid, whether weekly or monthly; whether paid upon Muſter, or how?

Mr *Garroway.*] I deſire you would aſk, when they were muſtered? When they were paid? What Money, and at what Rates?

Sir *Thomas Clarges.*] This Gentleman was a Volunteer; he had no pay. He ſays, "A Piece of eight of 4 *s.* 4 *d.* was paid them at 4 *s.* 9 *d.* Guineas here at 1 *l.* 1 *s.* 6 *d.* there at 1 *l.* 3 *s.*

Mr *Hampden.*] It was thought the beſt way for the King to take up the Money current there, Dollars; and it was ordered to go at the current price of *Ireland.* Perhaps ſome of that Money did not go ſo high as it might do; what was over went to the King's profit.

Sir *Chriſt. Muſgrave.*] This Gentleman gave you an account "That he was at *Cheſter*, when the Duke of *Schomberg* went over into *Ireland.*" I would aſk him this Queſtion, Of what number every Regiment did conſiſt, Horſe, Foot, and Dragoons, when muſtered at *Cheſter*; and when they arrived in *Ireland*, what number they were there? I would know what ſervice the Ships at *High-lake* were deſigned for, whether artillery, or baggage-horſes? And why they were not ſhipped with the Army, how they came, and how long after?

Mr *Waller*, being called in, ſaid,] The Foot were paid every day; the Horſe once a month, with deduction for cloaths. Since the ſickneſs, they muſter often, once a fortnight. They are paid in Pieces of eight at 4 *s.* 9 *d.* Guineas at 1 *l.* 3 *s.* They found no proviſion of ſtraw and corn where they were, but, in their winter-quarters, ſtraw and oats, but no hay; the laſt three weeks the horſes were at graſs and oats in the field; the horſe were at graſs the 10th of *November.* For ſurgeons medicines, I have heard they were very ill provided. I ſaw none of them, and I have heard they had little, or none. It was reported they had one thouſand ſeven hundred pounds worth of medicines, but I know not where they were. The Foreigners were warmer

warmer cloathed than our men; in great-coats over their close-coats; of which the *English* had none. The most healthy of the *English* Regiments was the Earl of *Meath*'s, of which few died; the next was Sir *Thomas Gower*'s, who took great care. There was little mortality among the Horse; I attribute it to their cloaks. The Camp was very moist, and extraordinary wet weather. I was in a house at *Dundalk*, and followed Duke *Schomberg*, who was two or three days before me. I was told they mustered 7 or 800 in a Regiment; they showed very full. Duke *Schomberg* went over with seventy Ships, and left at least one hundred to bring over the Artillery and the Horse. The Horse dropped in as they could. When they came together, there were two Regiments of Horse, and one of Foot, with between forty and fifty Sail. There were not many deserters; but few on either side. No action passed whilst we lay, but skirmishes with the out-guards. They were not well furnished with shoes. Some came late; they were not consigned to any body.

In a Grand Committee. On the State of the Nation.

Mr *Grey* in the Chair.

Col. *Sackville.*] We have raised a great deal of Money, and if we take no care to dispose of it, we encourage our Enemies, instead of defending ourselves. If the *French* King had paid for his Expedition as we have done, he had drained his Coffers of Money—Whilst we look after punishing others, our own will come upon ourselves. I will offer no Methods, but what are easy, and what every man uses that has his head upon his shoulders, in his own Family. Consider what force we have to maintain the State of the Government. Several things have been moved, and nothing yet concluded. Consider the State of the Army, till you have made an actual Settlement of the Land Army, the Sea and Ordnance. There is no going back. When *William* the *Norman* conquered the Nation, he set fire to his Ships. I move, That you will pass a Vote to take into consideration the State of the Army in *Ireland*, *England*, and *Holland*; and, when you have settled the Army, then the Navy to have a certain Settlement; and then send men to oversee.

Sir *William Leveson Gower.*] I would know, from these Gentlemen concerned, in the House, whence this ill management arises?

Sir *Henry Goodrick.*] The Office of Ordnance is obliged to the Duke of *Schomberg*, to put it into condition to show the

the proceeding—Never man thought of more in that Office than his Experience dictated to him. As for buying 500 freſh Horſes for the Carriages and Train, the Money that was aſſigned for that purpoſe was duly paid, and, I hope, well employed. There was no delay in the Horſes; twenty-ſix Pieces of Cannon were drawn by thoſe Horſes to *Cheſter*, but ſo it happened that the Platforms were taken off,—[and applied] to things more neceſſary at that time—It happens ſo pat that Duke *Schomberg* deſires this delay may be enquired into, that I ſhall, if you pleaſe, read his Letter to that purpoſe.

"*November* 15. I have diſpatched Warrants—I am glad the Parliament is ſo unanimous to vote for the Navy. There were great abuſes in the Embarkation of the Forces for *Ireland*. To anſwer that of the Baggage-Horſes, they were ready at *Cheſter*."—

Sir *Henry Capel.*] To inform againſt a Perſon I ſhall be tender, and I am not capable of it; but I think it fit to enquire into the Bottom. The Horſes were not only ſtayed at *Cheſter*, but let out to hire. The Treaſury had nothing to do, but to obey Orders iſſued out to them.

Sir *Thomas Clarges.*] From whom are we to enquire into the Reaſons of Miſcarriages? There are four People were in all Offices, who went through the Navy, Admiralty, *Ireland*, and were Commiſſioners of the Army. Our Buſineſs to-day is to conſider the State of the Nation, all full of Miſcarriages. I have lived many years, and in ſeveral forms of Government; I hope I ſhall ſee no more changes; I never ſaw the like Miſcarriages: We have loſt a Million by *France* at Sea, and almoſt a Kingdom for want of Supplies, if Report be true. In great probability, *Ireland* might have been had in *January* laſt for aſking for. Mr *Waller* ſems to inſinuate that the loſs of the Soldiers was for want of care of the Officers. As for the Army, we are to ſee what it is, and how many, that our Money may be employed to the honour of the Government; and as for the Officers, they are worthy Gentlemen, but thoſe may be thought fit in time of Peace, when in time of War it is neceſſary that ſome few men of experience ſhould be added. Perhaps, if ſome experienced men were added to the Treaſury, it would do no hurt. Every day we have experience of freſh news of the ill ſucceſs of the Government, and People may doubt whether we can

be protected, or not. If Trade be loſt, Land will fall. I have been told, that the Duke of *Schomberg* doubted he ſhould not be anſwered in what he needed; whether as a good Prophet, or from his Wiſdom and Experience, he expected he ſhould be neglected; and, when the *Iriſh* fled before us, it was a great misfortune we loſt the fruits of thoſe hopes. We ſhall hardly have ſucceſs in *Ireland* unleſs the King employ ſome actual executive Power in that Affair, and in ſome emergency put the abſolute executive Power in ſome Perſons, that, if they want a Rope here or there, they need not go to ſeek it in ſeveral Offices, but may have Power to uſe the Treaſury to iſſue out Money as occaſion requires. We have heard of Armies, and Garriſons, and whole Fleets, but where two or three Commiſſioners are appointed to take care of Affairs, theſe things are not done ſo eaſily. Upon the whole, I would make an humble Repreſentation to the King, of the State of the Nation, and leave it to the King's Wiſdom.

Mr *Foley*.] It was a wonder to me at firſt that *Shales* * was employed; that no man ſhould be employed, but one ſo much in King *James*'s intereſt. They knew this man to be faulty in *Auguſt*, and no care was taken. In former times, Privy-Counſellors were the Eyes and Ears of the Kingdom, and now all this muſt be put upon the Houſe of Commons, and we may ſit here till *Midſummer*, at this rate. I would addreſs the King, *&c.*

Mr *Smith*.] In plain *Engliſh*, Knaves and Villains are employed, and thoſe who would not give their conſent to take away the Penal Laws and Teſt could not get into their Places, and others that did are got in. I would deſire the King (in our Addreſs) to tell us, who were the occaſion of putting theſe Men in. As long as you have the ſame Councils, you will have the ſame things done.

Sir *Henry Capel*.] I cannot tell how theſe Comptrollers were ſent into *Ireland*; but, I believe, ſince *Shales* came away, both thoſe in King *James*'s and King *Charles*'s time in employment are removed.

Sir *John Thompſon*.] One thing gives me comfort, that you have it manifeſt before you, that there is Treachery.

* *Shales* had been Purveyor to King *James*'s Army on *Hounſlow-Heath*.

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The generoſity of King *Charles* II, who ſpent ſo much Money, was the Security of the Nation; but in time of War the Nation cannot bear it. I am againſt the Motion for an Addreſs to the King, *&c.* You are told of Councils, but you forget the *Primum mobile.* You have been told it came from higher Powers. You made an Addreſs for a Lady of Quality to be ſent into *France*—(Dutcheſs of *Mazarine*) Is ſhe gone yet? I know not the reaſon. The King muſt know the ſenſe of the Houſe, let Counſellors ſay what they pleaſe. I would addreſs the King to know who adviſed him to employ this Perſon, *Shales.*

Sir *Chriſtopher Muſgrave.*] You are not ripe for a Queſtion; you have not matter enough to ground ſuch an Addreſs. I think, before you proceed to that, you ſhould know to whom *Shales* is accountable. If theſe Miſcarriages are of ſo great a date as *Auguſt* laſt, you muſt know why this was never examined nor puniſhed. It muſt reſt upon theſe Perſons whom the King has intruſted. If this Houſe examine all Miſcarriages, you muſt be a perpetual Parliament. I know, *Shales*'s Employment is Commiſſary of the Stores; certainly ſome Perſons are Superintendants. When you know that, I think the Committee will aſk ſome Queſtions; till then, I would not addreſs the King.

Mr *Garroway.*] I queſtion whether our preſſures will admit thoſe Ceremonies in gradations. Certainly there are great Miſcarriages. Perhaps he was recommended by ſuch a man, as thoſe who ſhould call this to Account dare not. I never heard *Shales* named for good in my life. I have heard that he has ſent over his proper goods in thoſe Ships that ſhould have tranſported the Horſe. I know not how you will examine him, unleſs you will ſend for him over. I think it no injuſtice to take ſuch a Man out of Employment, ſo ill a Man.

Sir *Robert Howard.*] I have great hopes that we ſhall make uſe of this Debate, ſince no Man has forborne to give his thoughts, if hopes do you any ſervice. Here have been great Miſcarriages. I never heard a Man ſpeak well of *Shales*, nor do I believe I ever ſhall. He was very gracious with King *James*, and I am ſorry he is employed by King *William.* You may kill two Birds with one Stone; and, to do ſomething very plain, I would have

an Addreſs to the King to have Perſons ſent into *Ireland* to take Account of the Numbers of the Army, and the Proviſions. I am plainly for Members of this Houſe to go, who know their Duty to the Nation; that *Shales* may be ſecured there; and the Duke of *Schomberg* will inform them of all things, and *Shales*'s Books may be examined, that you may know the Number of the Army: You will then have a juſt Account of it, and I move for an Addreſs of this Nature.

Col. *Birch.*] I am pretty well encouraged this day. If ever you have the War carried on with Honour and Succeſs, you muſt hang this Man. As for diſplacing him, that is a minute thing with me. If he be a Commiſſary, it is a great Employment, and it is in his Power to do all this. The ſpace betwixt the Regiments arrival in *Ireland* was ſix Months. But I would fain have the life of the Buſineſs looked into. Whoever put this Man into this Truſt are Friends to King *James*, and not to King *William*. I would addreſs the King to ſee his Commiſſion, and by whom this Gentleman was commiſſioned for this ſervice. 'Tis by the ſame Hands that you have had all this ill ſucceſs. Find the Source, and I doubt not but the King will tell you.

Sir *Henry Goodrick.*] You have had Informations, of ſeveral ſorts, that the Duke of *Schomberg* is extremely unſatisfied with ſome about him. If the Duke thought the Army could be ſupplied by breaking this Man, before the Army came into Winter-Quarters, he would have done it. His Title is "Commiſſary-General of all the Proviſions." If this be fit to be ſtirred in before the Army were in Winter-Quarters (I intend to look farther,) the Duke will do as a loyal and wiſe man; but ſince the matter was unſafe to be ſtirred in before now, I hope it will not reflect on the Duke. I agree to an Addreſs, as moved; and, "That *Shales* having been employed, thoſe who recommended him have been rather Friends to King *James* than to King *William.*"

Sir *Robert Howard.*] You are moved to know of the King, who adviſed him to employ *Shales*; but take heed of doing one thing that may do a great deal of Miſchief, if you delay here, and let him go over to King *James*. Talk not

not of who adviſed this, and ſend him to his old friend King *James*.

Mr *Smith*.] If we had not queſtioned *Shales* here, he may ſtay another Campaign in *Ireland*. I would know a Reaſon, why on ſuſpicion he was not clapped up firſt. We muſt attribute all the Miſcarriages and Misfortunes to the Committee for the Affairs of *Ireland*. I would have this Man taken into Cuſtody, and have ſome other Committee for *Ireland*.

Mr *Garroway*.] You were told, "That he was ſuſpected to go over to King *James*, when he went into *Ireland* firſt." Do you think he can be ſafe there? He has done a great deal already. He knows all the ſecrets of the Army; a hundred things that no Man can foreſee; as where a Garriſon is that wants Victuals, *&c*. I would not have a perplexed Queſtion, but ſtill I inſiſt on knowing him that firſt adviſed he ſhould be employed, and I would addreſs the King that the Duke take him into Cuſtody.

Col. *Birch*.] I am for haſtening the Queſtion, and making it effectual immediately. I would wait on the King, and that will do it.

Mr *Garroway*.] I would leave it to the Duke to put in another Perſon. If he be recommended from hence, I look for as bad a Man as he. The King knows nobody fit. We are the Great Council of the Kingdom, and I think it is no intrenchment on the King's Prerogative, why the King may not take the Advice of this Houſe, as well as of the private Miniſters.

Sir *Henry Capel*.] I agree that this is the Great Council, and are the beſt Counſellors. It is a great honour to Duke *Schomberg*, and for the good of that Kingdom, to addreſs the King to order him to preſent a Perſon for this place. If you addreſs that the Duke name a Perſon, I appeal, whether the Duke will do it without the King?

Sir *William Williams*.] If the Duke nominate a Perſon, it will take up more time than the King can ſpare. It muſt be done preſently.

Sir *Henry Goodrick*.] The General is a check upon the Commiſſary; he muſt be reſponſible for his Commiſſary; that is, that you will not put upon him.

Earl of *Ranelagh.*] I ſpoke yeſterday with Col. *Lumley*, who ſays, "that *Shales* is in *Ireland*, and two men were ſent Comptrollers, able and honeſt men, *Robinſon* and *Fielding*."

Mr *Hampden.*] *Fielding* is in *Scotland*, and *Robinſon* in *Ireland*, but not ſuffered by *Shales* to act.

Mr *Garroway.*] I think your Vote will not have perfect effect, unleſs you addreſs the King to remove the adviſers of putting *Shales* into Employment.

[*Reſolved*, (by the Committee,) That the Houſe be moved, That an humble Addreſs be made to his Majeſty, That Mr *John Shales*, Commiſſary-General of the Proviſions, be forthwith taken into Cuſtody; and all his Accounts, Papers, and Stores ſecured: And that a fit Perſon, or Perſons, be put into his Place: And that his Majeſty will be pleaſed to impower Duke *Schomberg* to do the ſame.

Reſolved, (by the Committee,) That an humble Addreſs be preſented to his Majeſty, That his Majeſty will be pleaſed to let this Houſe know, who recommended Commiſſary *Shales* to his Majeſty, and adviſed his being employed.

To the firſt of theſe Reſolves the Houſe agreed, *Nem. con.* but, on the ſecond a Debate ariſing, the Queſtion for adjourning was carried in the Affirmative, 89 to 80.]

Wedneſday, November 27.

Debate on Commiſſary *Shales* reſumed.

Sir *Thomas Littleton.*] I was, laſt night, for adjourning the Debate. Then you had two ways propoſed, either to acquaint the King, but that was not thought proper, and, in hopes that the Debate might be reſumed, that another Motion might not be ſo harſh as this Motion of an Addreſs to the King; and firſt, to vote "That thoſe Perſons were Enemies to their King and Country who adviſed him to employ *Shales*, and that he would remove them from his Perſon and Councils for ever." I do not remember that the thing was ever done before. The King will be unwilling to deny you, but you put a great hardſhip upon him. I would rather mark ſuch men out, and, I believe, the conſequence will be, ſomebody will be removed from the King's Councils. Suppoſe the King forbear any Anſwer at all, it would look like diſtruſt. What effect can you have? The King will remove him, but he may alſo be proſecuted. The King can be no Witneſs in Law. If the conſequence

of

of your Addreſs be, that ſomebody will be removed, many will be glad of that conſequence.

Sir *William Leveſon Gower.*] I am for going none of theſe ways: I think we are out of the way. I think what we are about is as much as to ſay, the King ſhall be an Informer to this Houſe. He that knew that *Shales* bought his Place, can tell you more (Lord *Caſtleton.*) I would have him aſked.

Lord *Caſtleton.*] It was a vulgar Report that *Shales* bought his Place. I ſaid, "I believed *Shales* was no friend to King *James*, nor King *William*, but to himſelf."

Mr *Hawles.*] I am for the Addreſs. We muſt make uſe of extraordinary means. If, by a Precedent, we muſt find out unprecedented things, we ſhall never do it. If King *James* II was to come in again, he could not make a better choice of ſome Perſons in Employment. The King is a ſtranger to us. Councils have recommended Perſons who did it. It muſt be in the dark, and this is the beſt way to diſcover him and other Perſons. The firſt Employment was in the Weſt-Buſineſs, and no man fitter to be employed to betray us—That man who recommended him is not fit to be in Employment.

Col. *Auſten.*] I am as unwilling to propoſe any indecency to the King, as any man. We have a Wolf by the ears in this; we know not how to let him go. You only deſire to know of the King who brought *Shales* thither, and humbly beg the Queſtion.

Sir *Robert Cotton.*] If the King nominates who recommended *Shales* to him, you have ground to proceed. Though the King be a ſtranger to the Nation, he is not to point of Honour. You cannot do it decently—But the King may remove him from his Council, and that will be ſufficient.

Mr Sollicitor *Somers.*] "We do nothing if we find out the Men only, and not who put them into Employment:" This is ſaid, but to arrive at your end it may be anſwered, If a Queſtion be aſked a private Gentleman, "Who gave you that Advice?" It is not proper for him to anſwer. But if he adviſes him to truſt that man no more, he ſhows his Reſpect by it. If you make an unanimous Vote to deſire the King not to truſt that man, it will have

great weight in it with the King. This is a kind of laſt Remedy; a thing never put upon the King before, and a hardſhip! Do not you give great advantages to thoſe about the King to tell him, "that the Commons go beyond the bounds of his Dignity," and give occaſion to protect thoſe Perſons? Admit the King ſhould grant it, you muſt tell the King thoſe are his Enemies. Your ends may be anſwered by an Addreſs, "That the Perſons who gave this Advice may be removed."

Sir *Joſeph Tredenham.*] We are told by every body, that the King and we are upon one Bottom; if ſo, there is no neceſſity to go upon this extraordinary Courſe, but upon what we may, with confidence, aſſure ourſelves of ſucceſs in. I wiſh our condition were better, but is there no way to arrive at our end but by unbeaten paths, which our Anceſtors never found their end in? What effect can you propoſe to yourſelves in this, by the King's Anſwer? Nobody can think there is a ground of an Impeachment, or Bill of Attainder. If [he is] guilty of other Errors than this, you [may] reach him without this Addreſs. I ſee no convenience, but many diſadvantages, by it.

Sir *John Lowther.*] I am one of thoſe that agree with the Committee; but to hang *Shales*, and to have all thoſe puniſhed that recommended him to the King, ſome men think a hardſhip put upon the King, and ſome not. I have delivered my Opinion, to avoid the appearance of ſuch a Rock as hardſhip, by all poſſible means, to prevent the leaſt appearance of a miſunderſtanding with the King. Poſſibly the King may be miſtaken in men aud recommendations. Surely, the ſecond time, he will be cautious what he does againſt the Opinion of his Great Council, and better avoid this Rock.

Sir *Robert Howard.*] All agree to the ſame thing in the main, but differ in the method. I have rather been too warm upon Perſons formerly; and, I ſay plainly, the way we are in, is, in effect, what you owe yourſelves, and the Nation. A Queſtion bluntly put, "Who did ſuch a thing?" Conſider, whether in deſiring the thing, ſomething of your own reaſons of diſſatisfaction [ſhould not appear.] This ſeems a haſty ſtep. If you deſire, in the ſame Addreſs, to know the Perſon, or Perſons, who adviſed,

ſed, and ſay "you live under diſſatisfaction from Men that adviſe this, as the Intereſt of King *James*," ſupported, perhaps, with Reaſons, it would come in a more proper way, and without a blunt Queſtion. But, "that in the mean time, you have no great opinion of your condition whilſt King *James*'s Friends are employed;" then it will come with more reſpect to the Perſon you addreſs to.

Mr *Palmes*.] I preſume, adjourning the Debate was intended for Gentlemen to recollect ſome other way, and I hoped ſome Gentlemen would have it to lead you off from this called "hardſhip on the King." I would know whether *Shales* has a Commiſſion under the Great or Privy Seal, or by a bare Letter from the King? This may lead us to the knowlege of it, and thoſe about the King may put us into ſome way to ſcreen this off from the King. We are upon this Point ſingly, either to put a hardſhip upon the King, or betray the truſt of the whole Kingdom. If there be other Propoſitions, I muſt join for the Queſtion.

Sir *Thomas Littleton*.] Put the previous Queſtion firſt; if it be carried, the Houſe will be unanimous in the main Queſtion afterwards, for the Reputation of the Houſe.

Sir *Thomas Mompeſſon*.] 'Tis not uſual to put a previous Queſtion for agreeing with the Committee, upon an adjourned Debate.

Mr *Coningſby*.] At the Committee of Religion in King *James*'s Parliament, a Report was made of an Addreſs, and, upon an adjourned Debate, the previous Queſtion was put, "Whether the words "Proteſtant Religion" ſhould ſtand, *&c.*" and paſſed in the Negative. Judge the conſequence.

Sir *Thomas Lee*.] It is a great Miſtake, that the previous Queſtion, if aſked, muſt neceſſarily be put, neither at the time of the Report, for you may do it all at one time, and not at another. There may be reaſon not to put it now, and yet it may come to it hereafter. This matter is now under the King's examination; let him have the honour of it: He expects Letters out of *Ireland*.

Sir *William Williams*.] It is a monſtrous thing to be upon your Books in King *James*'s Parliament, "Whether the words "Proteſtant Religion" ſhould ſtand in the Addreſs." You are now upon a ſingle Head, Whether this is proper

proper for an Addreſs now? Therefore, I think, you ſhould put the previous Queſtion.

[The previous Queſtion for agreeing with the Committee was carried, 188 to 142; and the main Queſtion then paſſed, 195 to 146.]

Sir *Rowland Gwynne.*] It is apparent we are on the brink of ruin. I am not againſt preſenting the Addreſs, in the words of the Vote, "by the Privy-Counſellors;" but thoſe about the King may make ill reflections upon what we do. If you had taken more care in other Meſſages, we might have fared better in the Anſwers, (the care of Religion, the Laws, and the Government,) by thoſe about him.

Mr *Hampden.*] Something to the laſt Buſineſs—As I underſtand, ſomething was ſaid againſt Privy-Counſellors preſenting this Addreſs to the King, "that they had repreſented things ſo hardly to the King"—I would have *Gwynn* explain. I appeal to the King how we have miſrepreſented things.

Sir *Thomas Mompeſſon.*] What he ſaid was not with reflection upon Privy-Counſellors, but upon what was ſaid here.

Mr *Howe*] As near as I can recollect the words, they were, "That the Privy-Counſellors had ſpoken hardly of the Addreſs here, and he had reaſon to believe they would do ſo to the King."

Sir *John Lowther.*] I would not miſrepreſent *Gwynn*, but, on the other ſide, I hope thoſe who have the honour to ſerve the King at the Board, will ſerve this Houſe with their Lives and Fortunes. He ſaid, "He deſired that the Privy-Counſellors ſhould not preſent this Addreſs; they who had ſpoken ſo hardly of it here, would not favour it there." I am not ſo fond of my own Opinion, as not only to relinquiſh it, but obey you, contrary to my own ſenſe. I would not only relinquiſh the ſervice of the Council, but retire, if you think not well of me.

Sir *Henry Capel.*] I will put that Gentleman at eaſe preſently. There ſhall be no miſrepreſentation from me. Witneſſes do know the rule they go by. Whoever is of the Parliament, and near the perſon of the King, repreſent with all tenderneſs, and put the beſt face of things from hence to the King. I hope this will be the rule of every man, and ſhall be mine whilſt I live.

Col. *Auſten.*]

Col. *Auſten.*] Heat never does bnſineſs well. Let a man's ſenſe be what it will, he ought to deliver it as the ſenſe of the Houſe, and not his own. Go unanimouſly to the King, and let this Debate fall.

Sir *Francis Blake.*] A Privy-Counſellor told us, "That what the King ſaid in his Cloſet, was ſent to King *James* in brandy-bottles." You ought to examine thoſe who manage Affairs, and are near buſineſs. I name Mr *Blaithwayte.*

This Debate went off. [And a Committee was appointed to prepare the Addreſs.]

[Major *Wildman* acquainted the Houſe, That his Majeſty, having been attended with their Addreſs for ſecuring Commiſſary *Shales*, and his Accounts and Papers, was pleaſed to give this Anſwer: "That he had ſome time ſince taken Order therein, being informed of the ſaid Capt. *Shales*'s Miſdemeanors in his Employment; and had written to Duke *Schomberg* for that purpoſe:" And that his Majeſty was pleaſed farther to add, "That he verily believed, what was deſired was already effectually done; though, the wind being contrary, he had not, as yet, received any account thereof from *Ireland.*"]

[*November* 28 *, Omitted.]

Friday, November 29.

On a Clauſe in the Bill of Indemnity.

Sir *Thomas Clarges.*] I aſk your pardon if I ſpeak againſt the Liberty of the Subject. I have contributed to this Revolution, and have ſuffered for it. I ſent my ſon to the Prince of *Orange*, at *Exeter*, at great Expence. Thoſe who ſue for horſes and arms taken from them, have done nothing but according to Law. I diſcommend much their malice; but, upon pretence of ſervice to the Prince of *Orange*, ſome have plundered very honeſt men. To have their Names brought hither that have proſecuted, will increaſe animoſities, and may do hurt. Fortify yourſelves as well as you can, but name no perſons. But Actions, in the former Act of Indemnity, were diſcharged. I deſire you will do ſo now.

Sir *Henry Capel.*] I cannot blame any man for ſeeking for right, when wrong has been done him. I am for the Queſtion. I take it to be a great imprudence, boldneſs, and

* Captain *George Churchill*, upon his Petition, was this day diſcharged from his impriſonment in the *Tower*.

inſolence

inſolence againſt the preſent Government, now the Houſe of Commons is ſitting, and making an Act of Indemnity, whilſt this is depending, for men to bring Actions, *&c.* I fear there are ſome ill ſpirits that countenance one another to do miſchief. Since ſuch a Motion is made, I would not let it fall flat. I remember not ſuch impatience nor complaint formerly, when *Charles* II was reſtored; why ſhould they not have the ſame reſpect to this Parliament, as to others? We ſhall have them diſpute the Militia, and diſpute the Tax, and have the frame of Government torn in pieces. We have Enemies abroad and at home, and I hope you will put the Queſtion.

Sir *Thomas Lee.*] I am ſorry, and ſuſpect myſelf, when I differ from a Friend. The Rights of the People, and the Guardianſhip of the Indemnity is in King, Lords, and Commons; not in this Houſe alone. When men ſee Actions at Law fruitleſs, they will not ſpend their Money. Direct a Bill to be brought in, and that is better than a Vote. The Rights of Parliament are enough. Pray let us take no more Juriſdiction upon us than our Anceſtors.

Mr *Howe.*] It ſeems ſtrange to me, that thoſe who have broken all your Laws, and ſubverted Religion in the Eccleſiaſtical Commiſſion, ſhould be on an equal foot. What has this King taken but from Enemies? If they be pardoned here for what they have done, I believe they will not be pardoned in another world. The Law and the Sword grew luxurious in the *Weſt*, and I heard not of any body in King *James*'s Government that ſtood up for an Act of Oblivion; and now to be placed amongſt thoſe men,—I know not what to truſt to. Let us rather try it again.

Mr *Hampden.*] I am againſt the Queſtion, Suppoſe you had one of theſe Men at the Bar, and you aſk him, "Why he brought this Action?" It may be a robbery. Theſe inconveniences will happen in Revolutions; therefore I am not for a Queſtion.

Sir *Edward Seymour.*] I ſhall give you but ſhort trouble. The merits of the Queſtion have debated it out of doors. The Debate came on irregularly, and ſlipped itſelf in. Put the Queſtion, "Whether the Houſe ſhall proceed to the Order of the Day?"

Ordered,

Ordered, That a Bill be brought in to indemnify all ſuch Perſons from private Actions, that have acted in order to the bringing in their preſent Majeſties; or for their ſervice, or the ſafety of the Government: And that the Attorney and Sollicitor-General do prepare and bring it in.

Mr *Dolben* reports the Addreſs againſt Commiſſary *Shales* *.

Mr *Howe*.] I doubt you cannot make this a good Addreſs, or ever have good effect of it. If it muſt go, there is a word in it I would have good *Engliſh*; *viz.* "by the *Employment* of Mr *Shales*." I would have it, "*Employ* of Mr *Shales*."

Mr *Hampden*, jun.] I think myſelf obliged to ſpeak ſomething, being of the Committee. I had rather not have been of the Committee, and not have had not a hand in drawing it. Nothing ſhould have drawn conſent from me to this Addreſs, but the ſafety of the King. Some had ſcruples of conſcience about going to the Prince of *Orange*, but they were anſwered, when the danger was over. Nations were not made for Kings, but Kings for Nations; and Nations not by Kings, but Kings by Nations. I take it to be for the King's Intereſt to put you in mind of theſe things, as well as the Nation's. In the late Reigns we had good Paper-Laws, if good men had been put in to execute them, againſt Popery, and for the preſervation of Property; yet the Judges declared, "that the Laws were the King's Laws, and the King Judge of the neceſſity of the Government." This will make the King as abſolute as the Eaſtern Princes. In your Addreſs you deſire, "That Duke *Schomberg* ſhould name a Perſon fit for *Shales*'s Employment." He was thought to have ſkill in military Affairs, and yet complained, "That he could not put in a Cornet." If there be ſuch men about the King, it is not ſafe, and to no end to give Money. I would remove them.

Sir *John Guiſe*.] It is Parliamentary to have the Addreſs read, Paragraph by Paragraph. You have been told, "That *Shales* is not the only Man you are to remove, but in all Places and Offices." Poſſibly, inſtead of making this ſingular, there is not only *Shales*, but all other People to be removed as well as *Shales*. It is what you muſt do one time or other. If

* See it at large in the Journal.

there

there is any man here that does not wiſh for this, I ſhall tell him he is an Enemy to the Kingdom.

Mr Comptroller *Wharton.*] I was not for this Addreſs. I think, a good uſe may be made of what *Guiſe* has ſaid. I wiſh this Addreſs was laid aſide; it is too narrow only for an inconſiderable Fellow, a creeping Worm. I could wiſh all were laid aſide that can be found out—If the Addreſs be laid aſide, or recommitted, you may have fruit of it.

Mr *Howe.*] I am never moved by fears, or hopes, to do contrary to the Intereſt of my Country. I thought there would be no good Effect of this Addreſs, therefore I was againſt it. Theſe Perſons are near enough to the King to know, that this *Shales* is contrary to the Intereſt of the Nation to be employed any more. Many near the King thought it not for his Intereſt to employ him. I wonder not that all honeſt Men are not employed; they muſt have their tongues oyled and knees greaſed. I would find out Great Men that have been the Occaſion; name them, one by one, and I ſhall give my Vote as willingly as any body to remove them. (*It was cried out*, "Name them.") If I do, you will all vote for them, as you did laſt time. I would recommend ſome marks for the King to avoid and chuſe by, and leave this Addreſs.

Col. *Birch.*] I thought this Addreſs was a plaiſter too narrow for the ſore, but I ſubmit always. Now, pray, make the beſt of what is before you. It is thought "this of *Shales* is too little a thing to lay ſo great a weight upon." The Addreſs tells you, before you name the Man, of great inconvenience, and "that we have had miſchief from Perſons not fit to be put into Employment." I think it abſolutely neceſſary, that all means be uſed to continue a good correſpondence betwixt the King and his People. I confeſs, from the experience I have had, nothing is more miſchievous than when things are repreſented hard and inconvenient to the King, and what we have offered not to be well received by him: Inſomuch, that, formerly, a Perſon not liked by the Parliament was ſure to be preferred by the King, and every one muſt follow the Miniſtry, or have an ill life. I have not the [ſame] advantage of ſpeaking as other Gentlemen, but you know my meaning.

This

This is no hard thing upon the King; things taken in time are eaſily underſtood, and all is well when once thoſe about the King repreſent them well. They may ſcramble for Money for the King, and we for our Privileges, as has been done formerly; but as for your Addreſs, I would not lay it aſide, but that half a dozen Gentlemen wait on the King, and make not this little thing of *Shales*'s too great a Solemnity; but I would lay before the King the Miſcarriages by Land and Sea. If the King would do nothing, it looks as if thoſe about him would aſperſe the Government, and do nothing to cure it. Unleſs Miſcarriages be repreſented by Land and Sea, nothing, no, nothing, can cure it. Let then ſome Gentlemen (not to come to the Perſons, but every one of them, not only the putting in theſe Officers) ſhow what we have done at Sea, and ſpent 1,300,000*l.* and what has been done in *Ireland*, how we have taught them to be Soldiers, who were Cowards before—I move for the Addreſs.

Serjeant *Maynard.*] That there are more than a *Shales* in this I doubt not, both a great and a tall Man—But I am for going on upon this *Shales*, elſe we ſhall blow the Deer, and he will go into the Herd. They that beſiege the King will oppoſe all Addreſſes. If you would break a Faggot, break the Sticks one by one; when a Kingdom, nay, a King, is like to be loſt, and make us all Beggars. When this Addreſs is preſented, the King cannot but think it reaſonable; a Perſon that has ſo notoriouſly and wickedly demeaned himſelf! You have only *Shales* now; much more may be added hereafter. In the mean time go on with *Shales*. Shall we give our Money to we know not whom? When *Shales* is gone, it may be another in his place as bad as he; therefore go to all you can find out.

Mr *Foley.*] It is ſaid "*Shales* is a little Man," but we know not what Great Man recommended him. To ſay, "We ſhould ſtay till we had all our Grievances, to make a Remonſtrance of them together," that is much harder. I am diſſatisfied to ſtay till all Grievances are enumerated; at that rate, we can never come to any body, and we ſhall be quite undone, till the King and we be all on a Bottom.

Sir

Sir *William Leveſon Gower.*] I am for taking out all the Deer in this King's Park that were in King *James*'s Park. Since it muſt be a general Addreſs, let it be a Remonſtrance to take in every thing by Land and Sea. Be pleaſed to recommit this Addreſs, and let none but a Proteſtant breed of Deer be left, and recommit the Addreſs upon the Debate.

Sir *Duncombe Colcheſter.*] If you turn out the Deer, it will do you no good, unleſs you turn out the Keeper too. (*Said ſome,*) "Does he mean the King?"

Sir *Robert Rich.*] You were told, "You have ſat ſeveral Days upon the State of the Nation to little effect more, than that you have found out the Navy and Army were betrayed;" if that be little, I know not what is greater. It is ſaid, "*Shales* is ſent for out of *Ireland*;" but if you do not know who adviſed to take him into Employment, you do nothing. A general Addreſs is none at all. You are moved to commit the Addreſs; in my Opinion, that is to give it a decent interment. If the King know neither the Keeper, nor the Park, we muſt be plain with him.

Mr *Hawles.*] You find the Nation betrayed, and you know not by whom. I believe that, at Common Law, the Suggeſtion why a Perſon is employed is to be expreſſed in his Patent. *E.* III. Chap. 1. becauſe the King granted many pardons, the Perſons who ſuggeſted them were to be expreſſed. I think the Common Law was ſo—Now, inſtead of *Ex certâ ſcientiâ*, 'tis *Ex mero motu*—This could not be a ground unleſs with a *Non obſtante.* But ſince this is not purſued, it is not an unuſual thing to aſk this Queſtion in the Addreſs. I think it not a crime to recommend an ill Man, but to know him an ill Man, is. It is ſaid, "We ſhould not do what one Gentleman would not do to another." It is not the end of Governments to puniſh, but by misfortune they muſt do it. At Court-Leets they ſwear to diſcover all injuries done to the Lord, *&c.* If my pocket be picked, it is not civil for me to enquire who did it! Is this a way of arguing? Here is no hardſhip on the King; it has been done ſo before; it has been put upon *Ed.* III. and *Hen.* IV. Thoſe were great men in that time, and this may make this King great in this.

Sir

Sir *Richard Temple.*] In what *Hawles* ſays of Pardons he may be in the right, but not in the Grants. I would follow the Method of our Anceſtors, *reſpondeat ſuperior*, when under the Conduct of another Man. In an Army a General muſt find whom he employs, *&c.* I would recommit the Addreſs, and repreſent all Miſcarriages.

Sir *Edward Seymour.*] I was one of thoſe againſt the Addreſs, but when you have reſolved, it is not to be laid aſide by Art. A Man of Art is ſo near a Man of ſomething elſe, that I deſire not to be the Man. Gentlemen ſay they would have it recommitted, but I hear no reaſon given for it. That is againſt all Methods. By the ſame Argument, all other Addreſſes may be committed again and again, and that is "a decent Interment," as a Gentleman called it. When we debate a thing over and over, I know not but that, inſtead of reforming Grievances, we ſhall be Grievances to ourſelves. This may be done, and Grievances not left undone. If that be ſo hard upon you, not to remedy it, you will ſend your Trade back to *Amſterdam*, and bring their Religion inſtead of it. Aſſign any particular, *&c.* but it is an inexcuſable levity to do all this againſt Order. I would not (as has been moved) have the Body of the Houſe go with this Addreſs: We can do no more when we preſent all our Grievances. This is but a pimple, but a ſcab of your diſeaſe. That one Perſon ſhould draw a whole Houſe, never—Reſerve yourſelves for a greater Occaſion. And as it is too little for you to preſent in a Body, ſo it is too big for a particular Perſon, as has been moved.

The Addreſs was agreed to [and the Committee who prepared it, was ordered to preſent it.]

Saturday, November 30.

Mr Comptroller *Wharton* delivered the following Meſſage from his Majeſty:

"WILLIAM R.

"His Majeſty, having already declared his Reſolutions to proſecute the War in *Ireland* with the utmoſt Vigour, and being deſirous to uſe the means that may be moſt ſatisfactory and effectual in order to it, is graciouſly pleaſed, that this Houſe do recommend a number of Perſons, not exceeding ſeven, to be commiſſioned by

his Majeſty to take care of the Proviſions, and ſuch other Preparations as ſhall be neceſſary for that ſervice.

["His Majeſty is farther pleaſed to let the Houſe know, That, upon conſideration of the Addreſs of *November* 11, he gives them leave to nominate ſome Perſons to go over into *Ireland*, to take an Account of the Number of the Army there, and the State and Condition of it; who ſhall receive his Majeſty's orders accordingly."]

Col. *Auſten.*] If ever Thanks were due, it is now. The King grants before you aſk, or if you had aſked, you could not have mended it yourſelves. A man in his ſtate without aſking!—This is of ſo great conſequence, that I would give particular Thanks, and that very ſignally, by the whole Houſe.

Sir *Robert Howard.*] The Motion for "the whole Houſe to return the King Thanks," is very juſt and very ſeaſonable; and I ſecond it.

Ordered accordingly.

Sir *Edward Seymour.*] You have had a little Taſte of your Neighbours way of taxing in the Remembrancer's Office, where the Duplicates are returned. If you give you know not what, the next will be, they will ſpend it they know not how. Let us never lay Burdens on ourſelves that our forefathers never knew. I am ſurprized that thoſe who are for the King's ſervice, ſhould put you out of the old Way. I think the Church of *England* a State, as Monarchy is a State; I would have ſomething depend upon it—I am ſure that is Parliamentary, to conſider the Preſervation of the Nation. I am ſure that is the moſt righteous way.

Monday, December 2.

Debate on the King's Meſſage.

Mr *Sacheverell.*] I deſire you would conſider the ſubſtance of the Meſſage, and firſt know whether the Houſe will order any Member to be put into the Commiſſion. I ſpeak not for myſelf; I have neither health nor reaſon to act in that honourable Employment, that the King was pleaſed to put upon me. The thing is of mighty Importance, and

and is it not too weighty to be put upon us? I ſpeak truly, I thought it too weighty; impoſſible, very impoſſible, when we cannot know the ſtate of things, and, by conſequence, what is wanting to ſupply *Ireland*. If thoſe employed are not ſupplied, you will diſgrace your Members. Conſider the Honour of every Member, and put him not upon difficulties that he cannot extricate himſelf out of. I move, "That no Member of the Houſe be named for that Employment."

Sir *Thomas Clarges*.] By the King's Meſſage it is not expected that Members ſhould be named, but it is recommended to you to nominate ſome Perſons to him. I am much leſs able to be in ſuch an Employment, by my Age and Infirmities. It is not decent nor proper for us to recommend ourſelves, and it is impoſſible for men not exerciſed in ſo great Affairs, in ſo ſhort a time, the nature of *Ireland* conſidered. It was thought formerly that multiplicity of Offices, as well as Penſions, was inconvenient in this Houſe. I think it not fit that we recommend any of the Houſe.

Mr *Garroway*.] Since this has been moved, I think it for your ſervice to paſs ſuch a Vote. It is ſaid abroad, "We have too many Officers already here," and I would not take upon us to name any more; what Employment we have had is enough. I would return Thanks to his Majeſty for his gracious Favour, but this is too great for us. I ſpeak for your Honour; ſuch a Vote will be ſatisfactory without doors; and ſo leave it to the King.

Sir *Chriſtopher Muſgrave*.] I will give you little trouble, but I think you will do great right to yourſelves, to vote, "That none of this Houſe ſhall be nominated to this Employment." People do think we are labouring for Places for ourſelves. I think, if we can diſcharge what is before us, we are very happy. I would therefore vote, "That none of the Houſe ſhall be nominated."

Sir *Tho. Littleton*.] I think the ſenſe of the Houſe is, not to meddle with this Employment. I think it improper to paſs a Vote, "That none of this Houſe ſhall be named." I think it better moved, if you throw the Compliment into the King's Hand again; "That it is too weighty for us to meddle with;" and if you will not meddle with it, it is

an improper Queſtion to put, "That no Perſons of this Houſe ſhall be nominated."

Sir *William Williams*.] You have not only declared Judgment on *Shales*, but you have addreſſed the King to know who adviſed him to employ him; but I doubt this will look abroad, as if we find fault with all Officers out of the Houſe, and yet we will name none—Make a Vote not ſo much to ſatisfy yourſelves as the World without doors.

Mr *Howe*.] I think you give the People occaſion to ſay "You do little but go backward and forward, in your Addreſs about *Shales*." I was againſt it. The King has very graciouſly gratified the Houſe with a thing put into your hands for your advantage—and they get nothing by it; I am little concerned who are put into Places, if for the public good. Without aſking the King Queſtions, he cannot anſwer us. If Perſons be put in, *&c.* from hence, we know of whom to aſk Queſtions.

Sir *John Thompſon*.] If the Miſcarriages in *Ireland* be taken upon ourſelves, I fear it will come to this, that if we recommend Perſons to take *Shales*'s Place, if no Money be to act with, they cannot go on. We may thank the King for what we do not accept of, and I move for a Vote.

Sir *John Lowther*.] Some think this Buſineſs too great for them, and it is for me to ſpeak to. I would have this Queſtion with ſome Explanation: "That no Member of the Houſe be employed for Commiſſary of the Proviſions," may comprehend ſome employed already, and of the *Iriſh* Committee. I deſire this Explanation, that it is your Advice no Members ought to be, ſo expreſſed that the King may do accordingly. It has been ſaid, "Perhaps there is no Money, and there may be Miſcarriages, and a man will not take the load upon him;" but every body knows from whence Money comes, and you may prevent thoſe difficulties, that they have not a greater load than they can bear.

Mr *Foley*.] I am for putting the Queſtion, "That no Member be employed, *&c.*" and it needs no Explanation. For the *Iriſh* Committee I would not have nominated in the Houſe. Though not fit for us to nominate; yet,

yet, as a State of the Kingdom, you may adviſe the King with Qualifications.

Mr *Howe.*] We are for removing Perſons, and yet put it into their hands to nominate more ſuch, if we do not recommend.

Col. *Birch.*] I have a Place, and will keep it as long as I can, and ſhall give no man cauſe to complain, as I ſhall anſwer it at the great day; and in this matter, I take the Words to be recommendation, *&c.* I miſtruſt myſelf, and not them, *&c.* when I differ. The King does really intend what he has ſent you in the Meſſage. I believe really, as things are managed, both at Land and Sea, we cannot laſt long. Be pleaſed to lay this aſide, as too heavy for us—But I ſee, Offices are pointed at. I never knew any thing got by ſuch Offices, but Paper, Pen, and Ink, and a Room. If there had been Money ſtirring, I ſhould have been ſmelling after it. Put the weight off from your ſhoulders in this Houſe, on whom the main weight will hang—I ſpeak not of the Stores, nor of muſtering the Army; that may be cured without ſending into *Ireland*; but, for the latter part of the Meſſage, what is uſed to be done in this matter? Six or ſeven men ſat cloſe to examine things, and the Report was brought to the Houſe. Perhaps the King, or ſome of his Miniſters, may ſit in this Committee: Poſſibly this way may give the King ſome aſſiſtance. As to the firſt part, do as you pleaſe; but, as to the ſecond part of the Meſſage, do ſomething to make it practicable.

Sir *Henry Capel.*] I am for this Houſe to have its liberty, and for the King to have his liberty too. Truſts are beſt put where there is moſt property, and there there are more riches, and the property of *England* is in the Commons: Whom do they entruſt? They think themſelves ſafeſt in the Hands of Men of great Eſtates, and great Judgments; this will be the Opinion of the Counties and Boroughs. It is ſaid, "It is not fit for us to recommend Perſons, *&c.*" I am not read in Records, but I have heard that, in former times, the thing has been done; will you not let the King go by ſuch rules, that the Counties have gone by? Will you put a Negative upon him? To vote, "That the Commons will not meddle with Capt. *Shales*," a bad man, what ad-

vantage will you have of a Negative? Suppoſe the King chuſe a Man to-morrow, that is able, ſhall he not come into Parliament by reaſon of this Office? I hope this will awaken Perſons, ſo as to adjourn the Debate.

Sir *John Guiſe.*] I hear it ſaid, "Theſe are Queſtions uſually put;" but I believe that in all Reigns the Kings have not had ſuch care of the Government. I think this very extraordinary. The Meſſage has two parts; recommending Perſons, and ſettling a Commiſſion. I think, the Victualling the Navy has orders to be undertaken without involving the Commiſſioners in the Miſcarriages of the former. The King ſays, "I have been miſtaken formerly; pray aſſiſt me." If the Houſe will do nothing in this, we muſt reſolve to be ruined. You ſay you are betrayed; will you not remedy it? I hope that being a Member of this Houſe does not make a man ſo profligate that he may not accept of it. If you will not take it into your hands to ſupport yourſelves, it looks like giving up the Cauſe. Pray adjourn the Debate.

Sir *Robert Howard.*] The firſt part of the Meſſage is to recommend, the next is to ſend Perſons into *Ireland*; and upon this you raiſe a third, "That you will recommend none of your Members." You firſt thank the King, and then you unthank him again, and will not nominate, *&c.* This raiſes a ſuſpicion that, as ſoon as you have any thing to do with the King, it raiſes a Prejudice on it—and that a man in office has not behaved himſelf as he ought, and as for his place he would willingly reſign to a Perſon, to behave himſelf honeſter and abler than he. You give the King Thanks, but it includes neither. It is not proper to raiſe a Negative upon a Meſſage that gives you no occaſion, and unthank the King again, and make no uſe of it at all. The conſequence is, the King and the People may be ſeparated in their Opinion and Choice. Pray leave it to the King, free, without a Vote.

Mr *Sacheverell.*] The Gentleman's diſcourſe totally differs from the Queſtion propounded. 'Tis moved no farther than not to recommend any Perſons to the King that are Members, not to bar the King at all, nor the Houſe from examining the matter. The true ſingle Queſtion is, "Not

to

to debar the King nor yourſelves from examining the matter;" and pray put that Queſtion.

Sir *Chriſtopher Muſgrave.*] The Queſtion is not, Whether the King ſhall name any of your Members, but That you ſhould not name your Members. I would not adjourn the Debate, and leave it ſtill upon the Anvil.

Mr *Hampden.*] This is a previous Vote that will end all Debates upon yourſelves to preclude any of your Members to be nominated by yourſelves. Your Vote will go abroad, and the People are in expectation—Poſſibly Proviſions may ſtand ſtill, and betwixt the new and old Officers, nothing be done. This Vote is not intended for the King, but to make uſe of in future Debates.

Sir *Robert Howard.*] You have voted the King Thanks, which ſeems to accept what the King propoſes; you muſt explain your Thanks.

Mr *Papillon.*] I hope too ſudden a Vote will not hinder you from the benefit of the firſt part of the Meſſage. I offer to your conſideration, whether there are not matters of greater weight before you, than to name Perſons for Proviſions. This is a little thing in compariſon of the great Affair. I would adjourn the Debate, and go to the bottom of the whole Meſſage.

Sir *Thomas Lee.*] Though I have an Office, yet I think it my Duty to ſerve my Prince when I can. I know not but the King may truſt me as well as my Country. I am not for adjourning the Debate, for the next Queſtion will be for excuſing yourſelves.

Col. *Auſten.*] I think we are going to make the King an ill return for his gracious Meſſage. He deſires your advice, *&c.* and you complain that the War was not carried on, *&c.* and, at the ſame time, you call yourſelves the Great Council of the Nation; and now you will give him none. I would adjourn the Debate.

Mr *Hawles.*] You have complained that ſome Men have been put into Office, and the King did not know them, therefore the King deſires you ſhould recommend Perſons to him, *&c.* therefore I think fit you ſhould anſwer the King. I do not ſay all Perſons ſhould be named in, or out of the Houſe. If you paſs a Vote not to recommend Perſons, you put a diſgrace upon Perſons, as if they wanted in-

tegrity, or underſtanding, whom the Houſe ſhould recommend. There has been but one Perſon recommended, *viz.* Mr *Johnſon*, and no Notice taken of him in the midſt of Preferments. Shall we imply, by ſuch a Vote, that there is no Perſon in the Houſe fit to be truſted? I am againſt it.

Col. *Birch.*] I ſpeak now for fear I ſhall ſpeak no more. I was never in my life under ſuch thoughts. Now, in great haſte, we paſs this Queſtion; and I think it not ſenſe when it is paſſed. Thoſe that are for the Queſtion ſee ſome other way for their own ſafety than fighting it out to the laſt. For my part, I think of none. Can there be a lighter way than this? You will ſee the reaſon of all that has been done, and it will lead you, I hope, into ſomething better; I am ſure it cannot be worſe. On a ſudden you ſay, you will recommend nobody, and they will ſay abroad, "Things have been long ill, and now the King offers it you, you waſh your hands of it, and ſhake hands with the whole." This cannot be taken well by the King, nor thoſe abroad. This requires an adjourned Debate, and a conſideration in this great Cauſe two or three Days; and I hope, God will direct us.

Sir *Thomas Clarges.*] I expected not this Debate to-day. I am for putting the Queſtion, for the reaſons given againſt it. When you have done this, I hope you will waſh your hands of the other too. This looks like taking the Stone out of their Foot, and putting it into yours. If thoſe who are our own Members be named, and there happen Miſcarriages, we ſhall make a faint proſecution of one another; and we ſhall have another advantage, to revive the ancient uſage of Parliament, that no man accept of an Office, as Sheriff, or any Employment, without the conſent of the Houſe. I have heard of Judges, and Attorney-Generals, making Apologies for accepting their Places till they have had your leave. In the late Troubles, the Parliament was involved in a great War with King *Charles* I; then was made the Self-denying Ordinance, when they were brought low and worſted; they proſpered upon it, and, I hope, ſo ſhall we, and I am not for adjourning the Debate.

Mr

Mr *Foley*.] I wonder the Houſe was ſo forward to give the King Thanks before in a Meſſage—It is impoſſible the King and Kingdom ſhould be ſafe as long as Perſons are in Council that have ſat in King *James*'s Council.

Sir *Chriſtopher Muſgrave*.] Though I ſhall not recommend Perſons, yet I would give what Advice we can for carrying on the War; but it was not the Advice of your Anceſtors to recommend Perſons for the executive Part. The King's Council and Generals are fitteſt, knowing the Abilities and Qualities of Perſons. I move for Thanks to the King, *&c.* and we cannot be ſafer than in the Hands of Perſons that his Majeſty ſhall think fit.

[*Reſolved*, That that this Houſe doth not think to recommend any Member of this Houſe to be employed in the Service of *Ireland*, for the purpoſes expreſſed in his Majeſty's gracious Meſſage of *Saturday* laſt.

Reſolved, That this Houſe doth humbly deſire to be excuſed from recommending any Perſons to his Majeſty to be employed in the Service of *Ireland*; but humbly leave it to his Majeſty's great Wiſdom to nominate fit Perſons for that Service.

Ordered, That Mr Speaker do acquaint his Majeſty with the ſaid Reſolution, when he preſents the Thanks of the Houſe to his Majeſty.]

[*December* 3, 4, 5, 6, and 7, Omitted.]

Monday, December 9.

On the Land-Tax Bill.

Mr *Sacheverell* brought in an appropriating Clauſe for Money to the Seamen, *&c.* 500,000 *l.*

Mr *Godolphin*.] The laſt Year, the *Dutch* would be contented to be on an equal foot with you. The *Dutch* can ſet out 90,000, and we 50,000 Seamen. If they bear no greater proportion, and we be ſtill kept to five-eights, they will run away with all our Trade. A Million is the leaſt that can be appropriated.

Col. *Birch*.] I cannot give my Opinion in this matter, till I know how the 300,000 *l.* taken up on the Credit of this Bill, is employed. Sure you intend not this 300,000 *l.* and 500,000 *l.* more. If that be opened, we ſhall better ſpeak to the *Quantum*.

Mr *Garroway*.] I always thought a good part of this 300,000 *l* was for the Seamen. There is almoſt a Million gone into *Ireland* this Year; I know not how that could

could be ſpent. They deſigned 1,500,000 *l.* for the Fleet, and they have had but 400,000 *l.* I would willingly know what is become of the reſt; though I never knew what good came of an Account here.

Sir *Chriſtopher Muſgrave.*] You are put in mind of 300,000 *l.* borrowed; I take it for granted, that part of it is employed for three Months wages due to the Seamen; that is on another conſideration, that they may not lie longer at charges, to be ready, and transferring to Perſons taken from one Ship to another. If this be but an encouragement for a preſent fund, to carry on the Work (for no man can compute it wholly to diſcharge) and the preſent ſervice, the reſt is to be truſted with the Government.

Mr *Sacheverell.*] I do conceive, and take for granted, that the two Months is not paid. The Money borrowed upon the Credit muſt be paid. I would know, whether it be borrowed, and how applied? If there be but a little borrowed, the more muſt go in this Clauſe of Appropriation.

Mr *Hampden.*] To what is deſired about the borrowed Money, I think about 20 or 30,000 *l.* is paid, and come in. I cannot think great Sums are come in, or will come in; but if you appropriate to the Navy, I fear you will make a Diſtraction in the Affairs. But if this ſhould be applied to the Navy, and no Money for the reſt, what will come of it?

Sir *Thomas Clarges.*] What is deficient in the twelvepence on the Pound is to be ſupplied in the Credit by this Act. My intention is, that the Seamen may ſee our care, that we appropriate 300,000 *l.* for the growing ſervice. I hope we ſhall have the Act clear for the growing ſervice.

Mr *Foley.*] We are debating what we ſhall appropriate; ſome are for more, ſome for leſs, but I would have all appropriated, and not ſpent, as the laſt Money was to pay King *James*'s Debts—And now we come to it, we know not what this Money muſt be applied to. What other Money you give, appropriate it to the Army, that you ſuffer not in your reputation, as you did laſt year.

Sir *John Thompſon.*] I am glad to hear 20,000 *l.* is left: I feared all was gone. If thus we pay the Intereſt, and the Nation is mortgaged—It was ſaid, "There was a Million

lion in Stores when the King came in," and we find not 300,000 *l.* If you will appropriate all the Money you give to the Navy and Army, I am for it; but if you do not like that, let them tell us what is owing; but if you let this go to pay old Debts, we ſhall be in that condition never to pay our Debts.

Mr *Sacheverell.*] I told you, at firſt, 300,000 *l.* was the leaſt you could appropriate to the Navy, and I think it too little; therefore I quit that Motion, and think that leſs than 400,000 *l.* will not do.

Mr *Garroway.*] There are three Heads relating to the Navy; that for the Seamen, that for Victuals, and for Stores. As for the Stores, you can have no more this year; the *Baltic* Sea will be frozen up. I am for 200,000 *l.* for the Seamen, of what can be borrowed upon the firſt three Months, and the next for Victuals. I know no farther occaſion, but what belongs to the Navy and Army.

Mr *Papillon.*] All the Victuals muſt be bought with ready Money: For thoſe things of the Seaſon you muſt have ready Money. Butter and Cheeſe you may have upon Credit; they may be had at any time.

Mr *Garroway.*] There was but 300,000 *l.* for the Seamen, the laſt year. The Stores are all provided for out of the reſt of the Money.

Sir *Thomas Lee.*] I would only aſk, whether Gentlemen intend, that Seamen ſhould go into Merchants Ships (their wages are ſo great there) by paying them off? It was the ancient courſe in the Navy not to pay off the Seamen till they diſcharged their Ships.

Mr *Garroway.*] I offer it to your conſideration; if that Money comes up, we muſt look upon the Stores as full; but, I hear, the Yards are in as much Arrear as the Seamen. I would have the Yards paid.

Sir *Thomas Lee.*] There is betwixt 60 and 80,000 *l.* due to the Yards already, with great Clamour; you will now raiſe an Expectation upon the Yards, and the Merchants, for Stores. If you bring the Yards to two Quarters, they are well enough. Inſtead of the Word "Yards," pray put "Wages."

[*Reſolved*, That 400,000 *l.* be appropriated.]

Tueſday,

Tueſday, December 10.

On the Lords Amendments to the Bill of Rights.

Mr *Godolphin.*] I am a little ſurprized that this Bill ſhould be read at this time of Day, but not ſo ſurprized but that I have a Clauſe in my Hand to preſent. Since the Lords are pleaſed to make Amendments, we may agree or diſagree to them, but we may graft Amendments upon their Amendments. The Clauſe is to provide for the future. Since we are providing for the Religion of Kings, I hope we ſhall not provide negatively only; but what Religion the King ſhall be of. The Bill ſays, "Not a Papiſt," but I would have a Declaration, "That they are Chriſtians." They are to renounce Tranſubſtantiation; a *Jew* will do it, or a *Mahometan*, and make no ſcruple of it, with the Sacrifice of the Maſs, *&c.* and the renouncing all foreign Juriſdiction they will come up to. I would have it farther, "That the Kings and Queens, at the time of their coming to the Crown, ſhall produce a Certificate from ſix Peers, three Temporal, and three Spiritual, that they have received the Sacrament according to the Church of *England.*"

Mr *Hawles.*] I have ſomething to offer relating to Impeachments, if the Rules of the Houſe will admit it.

Mr *Sacheverell.*] I am glad to ſee the Lords Amendments come down as they have done. To put Difficulties now upon this Bill I would not adviſe, and I hope the Houſe will agree to them. Why ſhould we ſo much hazard this Bill by Amendments? I hope hereafter Impeachments may be conſidered, but I would agree with the Lords now, heartily wiſhing the Nation's Settlement and Proſperity.

Sir *Chriſtopher Muſgrave.*] I think, this Amendment offered will not hazard the Lords Agreement. They cannot be ſuppoſed to admit a Prince of another Religion.

Sir *Thomas Littleton.*] This Amendment is not offered on account of thoſe already in the Succeſſion; why ſhould we think to qualify Perſons we intend ſhall not come into the Succeſſion?

Sir

Sir *Joſeph Tredenham.*] Since the Bill of Rights is to be as long as we ſhall be a Nation, I think fit to receive the Amendment.

The Amendment, (which was rejected) was as follows: "In the ninth Line, after the Word "Parliament," and before the Word "but," add theſe Words; "and ſhall at the ſame time produce a Certificate, proved by ſix Peers of the Realm, (whereof three Spiritual, and three Temporal) of his or her having, within three Months before the meeting of the ſaid Parliament, or Day of Coronation, which ſhall firſt happen, received the Sacrament of the Lord's Supper, according to the uſage of the Church of *England*—The ſame after the age of ſixteen."

[*Wedneſday, December* 11, the Land-Tax Bill paſſed. *December* 12, Omitted.]

Friday, December 13.

Debate on Princeſs *Anne*'s Revenue, *&c.*

Mr *Hawles.*] Penſions in *Henry* VII's time were granted to the Judges out of the Cuſtoms. They were not well paid, and at *Black-Fryars* they all conſulted upon it, and agreed, "That an Action at Law did lie againſt the Cuſtomers." In Queen *Elizabeth*'s time, there was a Caſe of a Penſion granted to a Phyſician, in *Edward* VI's time; they agreed "That it had a Continuance for the Doctor's Life." When *Charles* II was on his Death-bed, he made Grants of Settlements of the Revenue. I was againſt ſuch diſpoſal then, and am ſo now. Let the Princeſs have her 30,000 *l. per ann.* by her Patent, not by virtue of that Patent, but by gift by Act of Parliament.

Sir *John Trevor.*] As to *Sacheverell*'s Opinion, "That the King cannot grant away Aids given in Parliament," I wiſh it were ſo, but it has not been ſo theſe 4 or 500 Years. The Judges of *Weſtminſter-Hall* have ſtill judged it, as in the Caſe of Prizes and Aulnage; nay, the King has granted Demeſnes and Quinzes after the Parliament had granted them to him. By ancient Law, the King cannot part with the Patrimony of the Crown. Complaint was made in *Edward* III's time, that, by ſeveral Acts, Lands have been ſettled in the Crown, yet Opinions were ſtrong in *Weſtminſter-Hall*, that the King could grant 1,200,000 *l.*

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per ann. was granted away with a *Non obſtante*. It has been complained of in Parliament formerly. I wiſh it had been conſidered in the Bill of Rights. Except the Judges will declare, "That the Act of Parliament does bind the King," 'tis but hedging the Cuckow. I wiſh with all my Heart you would make it ſo.

Sir *Thomas Lee.*] I wiſh the Clauſe ſingly for the Princeſs, and her only. The ſame Reaſon for this ſaving for her is the like for all Perſons concerned. That which ſaves her Grant, with a great many others, makes her caſe only for a Colour. I know not the Law, and am much leſs verſed in Aulnage †; I take it to be a Service for the King, and a reward for it. In all ages it has been complained of, when Parties have been over-proſecuted, and under-compounded for.

Mr *Garroway.*] Our Caſe is now, ſettling a Revenue for the firſt Year. Let the Letters-Patent be what they will, we weaken them not. According to Order, the Princeſs is to be provided for; and if I live ſo long as to ſettle the Revenue, I would make hers as firm as may be; but this is only a Revenue for her, till the King's Revenue be ſettled. Let it be 40,000 *l.* for this Year.

Sir *Thomas Clarges.*] I ſee, great matter is made of the conſequence of ſettling this upon the Princeſs, that it may be a Precedent in another place; but when the ſame Caſe is, I would never deny it. In Parliament, it is a conſtant Rule, to favour Grants from the Crown. In *Henry* VI, and *Edward* VI, *&c.* as before, there were ſeveral Acts of Parliament confirming Letters-Patent, and they have always favoured and indulged ſuch Grants; and now you will make the Princeſs the firſt Example of annulling theſe Grants! This Grant is but for a Year; but if you let this have no continuance, it will be hard. The Aulnage is an Impoſition, ſo is the Butlerage *. But what troubles me moſt is, that this ſhould be made the firſt ſtep.

Col. *Birch.*] I have waited all this Day to ſee what this Debate would tend to. For this noble Princeſs all agree to a comfortable and noble Subſiſtence. This is neither ſeaſonable, nor puts Strength to that Patent, *&c.* If it be as to the ſecond part, an Augmentation, you muſt time it—I hope the King may be in

† A Duty on Draperies exported. * An Impoſition on Wines imported.

a better

a better condition (I will not call it "good luck.") Upon the whole, I agree, that, as has been moved, we may make ſuch a noble Allowance as the Times will bear; but the King's Allowance is cut, and cut ſoundly; and, though this is the worſt-timed Buſineſs that ever was, yet I am for carrying it on. But if you name this Patent, as is moved, you will prejudice thouſands. Lay aſide naming it, and you muſt do it, and have the Patent before you. Name not the Patent at all, for you will do more hurt than good by it.

Mr *Finch.*] I perceive that Gentlemen apprehend that a ſaving of the Right of this Patent is ſaving the Right of all others; it is quite contrary, for ſaving this Patent by name leaves all others looſe. I muſt ſay it is a new Queſtion, becauſe it is the firſt time that it was made a Queſtion. If it was never queſtioned, I hope it is according to Law. I remember, you have been told of the diſmal conſequences, "That this would be a leading Precedent to provide for all the King's Children." The Judges reſolved it in the Bankers Caſe, "That one Grant was good, and another naught." It is the firſt time I ever heard that Caſe reproached. I remember the whole Debate of the Hereditary Revenue, Whether that for Life ceaſed? But nobody made a Queſtion, Whether the Hereditary Revenue ceaſed? Do you mean to determine a Queſtion that no man ever made? In the mean time do no hurt to the Patents. Leave them as they were.

Sir *Thomas Lee.*] I remember, I heard a learned Gentleman, upon occaſion of the Bill for Sale of the Fee-Farm Rents, of the King's Council, ſay, "That the King held them as his Crown, in Fee, and could ſell them, but purchaſers would not come up to the Price, without an Act of Parliament." When they come to ſay, how Judgments of Law have been, let them tell me how long Kings have lived upon their ſubjects Grants?

Mr *Finch.*] *Lee* does refreſh my Memory. I do remember, there was ſome private Opinion that the Hereditary Revenue was gone, but it was not the Opinion of this Houſe. As for the Fee-Farm Rents, the King could ſell them without Act of Parliament, but if the Hereditary Revenue ceaſed, why did you think it a Neceſſity

ceſſity of an Act of Parliament? I think, the Argument is alike with that and the Fee-Farm Rents.

Saturday, December 14.

In a Grand Committee. On the State of the Nation.

Mr *Holt.*] The Honour and Safety of the King and Kingdom depend on this day's Reſolution. The Miſcarriage of the laſt year is recommended to your Conſideration. The preſent State of the Nation is a State of War; all conclude, that Money is the ſinews of War; I fear there have been great embezzlements, and I hope you will enquire into it how it has been iſſued out. I have heard the Stores are empty, and I believe there is a great want of Money, but I obſerve, there is catching at it. We have appropriated Money for the Stores and Yards, *&c.* but it has been like boys ſcrambling for nuts, ſome get three or four, and others none at all. If we appropriate this Money, it ſeems by that we are jealous, and why ſhould we not enquire? You have been told by an honourable Perſon how little there is, and how much wanting.

Mr *Foley.*] You have ordered the Committee, to-day, "to conſider the State of the Nation." I would enquire why *Ireland* was not relieved in proper time; it was a great miſchief. There was a Fleet, and yet Ammunition was ſlipped from *France*, and no care of conveying relief to *Londonderry*; and all came to nothing, till almoſt all the people periſhed. 'Twas neglected ſix Months, and thoſe Officers that took care of their Soldiers in *Ireland*, did well, but no enquiry into thoſe that took no care. Horſes were ready for the Artillery, but they ſtayed ſix Weeks. As for the Fleet, no part of it but was under great Miſcarriages, all in diſorder—No care of Convoys for Merchants; they have done nothing to annoy our Enemies; where to lay the blame, I cannot tell. As for the Miniſters, they have done the ſame things as in *Charles* II's time, which makes me think them Penſioners to *France* ſtill. We are not now in an ordinary caſe—If this Government by any accident ſhould miſcarry, we are all like to fall with it, the Proteſtant Religion, and all. I move, "That you will make an humble Repreſentation to the King,

King, that things may be managed more to the ſatisfaction of his People."

Sir *Robert Rich.*] What is ſaid, gives me occaſion to tell you ſomething of my own knowlege. A Captain who lived twenty or thirty Miles from *Londonderry*, and who loved the Place, had applied to the Council of *Scotland* for the relief of it: They loaded him with Meal; he ſailed by our Fleet, and was brought aboard to give an account why he did go by the Fleet without calling, and he muſt give account to the General; he ſaid, "he knew no General." They cauſed him to lie there five weeks; he aſked them the reaſon: They told him, "There was a prodigious Boom croſs the River, choaked up with ſunk Veſſels, and a Battery on the River, with ſmall ſhot, on each ſide." He aſked, "Whether, in five weeks, any long-boat was ſent to view the Boom?"—The boy he ſent, who ſwam in, gave a diſmal Account of the Condition of the Town. He was ordered to go up the River, and if he could not get up to the Town, to fire his Ship, to be uſeleſs — The Man of War, and two more, ſtopped ſhort of the Fort; the Meal-ſhip, was before. When he was near, he dropped anchor. The anchor drew, and the tide carried the Ship's ſtern athwart the Boom; and this diſmal Boom, only with the weight of this Ship broke in the middle, and no wind at all. I hear not of much puniſhing, nor much rewarding. This man has lain nine weeks to ſollicit for his reward for his pains, and no notice is taken of him.

Mr *Jephſon.*] I did pay this Captain 300 *l.* and more. I think this Captain was one *Douglas:* I think this is the man.

Sir *Robert Rich.*] This ſum was paid him for the freight of his Ship, but for his recompence not one groat.

Sir *John Guiſe.*] I ſhall ſpeak of one head moſt natural to this Debate, and that is of "Money ſaid to be the nerves of War," the diſpoſal whereof for your ſafety is to the beſt advantage. I know not whether it be regular, in a Committee, to mention it. Inſtead of Money given to pay the Army, to have none paid! You muſt, to do this, ſtate the Accounts of Money and Stores, when the Prince of *Orange* came in, and then what is come in of that

you granted, and how diſpoſed of, and the Charge of the next Year, whether two Millions will do it.

Sir *John Thompſon.*] I take it for granted, that the Money you gave the laſt Seſſion has anſwered all the ends then propoſed; and they have had more than could be employed. When Perſons ſtill are in Council, who have formerly managed, when there was a great Army to enſlave us, I can never expect good from ſuch men. I offer you, Whether 50,000 men is not enough?

Sir *Thomas Clarges.*] As for Accounts, they are referred to a Committee already. When that is reported, you will know how they ſtand, from thoſe of the Treaſury, who give you account; I hope that will be ſatisfactory. I remember, in the Civil War, when the Party of *Charles* I. were near overcoming the Parliament Party, they preſently fell upon a new model of the Army and Affairs; the Precedent may be made uſe of now; there is ſcarce a day but we hear of misfortunes. You have been told, "That King *James*'s falſe dice are ſtill played with, and go about." This acceſs of Foreigners in the Army is another great diſcouragement; their way of fighting is from hedge to hedge, and from hill to hill: The *Engliſh* have another way; and King *James*, enquiring of Gen. *Morgan*, why the *Iriſh* were ſo good ſoldiers abroad, and ſo ill at home? he replied, "His Majeſty was miſtaken, for when they have *Engliſh* to deal with, they charge cloſe, and then fall in with butt-end of muſket." What infelicity we are under I cannot tell; what advice the King has I cannot imagine; but we may do our own work by our own Countrymen. I moved, "That 400,000 *l.* might be applied to *Ireland*;" and that, I can rationally make appear, might have reduced the Weſt of *Ireland* in three months: But that is paſſed now. The Fleet lay ſix weeks in the Bay of *Kinſale*, and we might have had *Corke* for aſking for. One *Townſhend*, Captain of a ſhip of twenty guns, was blown, by weather, into *Caſtle-haven*, and ſent a boat aſhore to enquire after his Proteſtant relations; they told him, "They were priſoners in the Caſtle:" Up they went, and after a ſhot or two, the *Iriſh* thinking more followed, they took the Caſtle, and redeemed their friends: If fifteen muſketteers have done this, what might 500 men? But, I am told, the commanders

commanders had poſitive inſtructions not to ſet a man aſhore. Here is 400,000 *l.* a month, and no method was taken as in other Councils. I know not whether it is by weakneſs of Council. Formerly there were 100 in a company, now but 50: The uſe of this was, that men might be drawn out diſciplined immediately for ſervice, and this would put life into your buſineſs. As to this of Foreigners, I know not what ſecurity we have in them; but I am ſure this King came in by the Church of *England*, their pens, ſermons, and ſufferings. When all things are to be feared, men will fear nothing. Some Gentlemen, out of ſcruple of conſcience, have not taken the Oaths; they acquieſce under it, without murmur againſt the Laws. There is another ſort of men that live under a conſtant breach of the Law. By Law no man can be in Office, who takes not the Teſt and Oaths: It will be no anſwer to ſay, "The Chancellor and Lord Chief Juſtice did not come to my houſe to tender me the Oaths." I would have all former differences forgotten. The Diſſenters are againſt Monarchy, but it is the Government that thoſe men would have all in their hands. Having given my opinion of the general State of the Nation, I deſire, "That we may make a Repreſentation of it to the King."

Sir *John Guiſe.*] I ſuppoſe this Gentleman was not upon the ſpot when the change was, but, I aſſure you, the Church of *England* ran away from us, and the Diſſenters ſtayed. I hear the word "Monarchy" named; I would know who is againſt Monarchy? I would not have theſe diſtinctions among us; but pray go on to the State of the Nation.

Sir *William Leveſon Gower.*] If I do not miſtake, I hear a project to reduce *Ireland* with 400,000 *l.* If that can be, I would give him 100,000 *l.* for his ſhare. I think, if the Nation be in ill condition, you would do well to make a Repreſentation of it, to inform the King as well as ourſelves. Your way is to look back to the Prince of *Orange*'s coming to the Adminiſtration of the Government, to ſee what Money was then in the Exchequer, and what in the Stores: I would not ſkin the ſore, but ſearch it to the bottom. If you have a plain charge and diſcharge, that will ſatisfy you.

Mr *Howe.*] I think, the worſt State of the Nation is, to throw the Fanatic and Papiſt at one another's heads. The Church of *England* have ſo well vindicated themſelves from Popery, that I hope we ſhall ſhow ourſelves not the men we are repreſented, to ruin the Church, and ruin Monarchy. I know not what Religion does here; that is for the pulpit. Secure the Government from King *James*'s coming in, with Popery at his heels, and the *French* King riding on his back: And as for thoſe who have been employed, faults are eaſily made and eaſily found, but rarely remedied. I would conceal our faults from our Enemies, and mend them as ſoon as we can, and regulate where Money has been miſapplied.

Sir *Thomas Clarges.*] I deſire to explain myſelf. Morally ſpeaking, with 400,000 *l. Ireland* might have been put into your hands in three months. I have no place of profit, and deſire none, but I can make good what I ſay. I hope, when we have fears, we may have liberty to make diſcovery of them. When we have a ſort of men againſt Monarchy—(*He was called upon to name them.*) I hope, all are free here, and all of the Church of *England*; there are a ſort of people againſt the Penal Laws, and the Teſt, and, I am afraid, that now they will not take the Oaths, they have a looſe foot to comply with ſome change.

Sir *Henry Capel.*] I ſpeak to *Clarges*'s diſtinguiſhing perſons. I have a feeling about me;—(*They laughed*) I mean, my family. Diſtinction in the Civil War, how ended it? Fatally. Though they could not bring in Popery, in *Charles* I's time, they brought it to paſs, in a good meaſure, in his ſon's. The Long Parliament had a good natural diſpoſition to do good for the Country, and then we were told, "It was coming to be like 1641." Pray let us have no Diſtinctions.

Sir *Thomas Clarges.*] That Gentleman and I ſat near eighteen years in that Parliament; and he, I hope, will bear me witneſs that I was then againſt Popery. I ſay, in King *James*'s Parliament, who cloſed againſt the Teſt, and who cloſed for Liberty? I fear, there is ſome ſecret reaſon for it, and in it.

Sir *Robert Howard.*] There has been ſpeaking, on all ſides, of this, and that. I ſpeak plainly, and will ſhow plainly

plainly where this will end, and how unfortunate—When this began on either ſide—Not thoſe that would take away the Penal Laws nor the Charters, let their opinion be what it will on either ſide, and ſome in this Houſe may yet be called upon. It is ſpoken of "Diſſenters who complied with King *James*," and Whig and Tory revived—And then can we ſay, That any man is for the Government who was for the Regency? (*He was interrupted, but went on*) I only ſaid, that thoſe things would prove fatal, and, in the end, deſtruction. After you have left this fairly to ſome uſe, you have had a Motion, and ſeconded. I am for underſtanding every thing; and what you did from the hour the Prince of *Orange* came, to ſee that all has been received to this day, and diſburſed, ſo exactly, ſhortly, and viſibly; and this ſhall be done ſo juſt, that he is not worthy of the place he is in that oppoſes it. 'Tis fit that you have it from the firſt day of *Michaelmas*, and ſo on.

Mr *Smith*.] I am not of *Clarges*'s Opinion, "That we have none to fear but Sectaries, and Common-wealth's-Men." I think, there are Church of *England*-Men, and deſtroyers of the Church, who complied with King *James*, becauſe they could have no Toleration under other Reigns. I hope, the King will have ſuch information of this day's Debate, that we ſhall have no more Foreigners; and I hope the *Engliſh* ſhall be paid, that the Officers may not pick the Soldiers pockets to ſubſiſt themſelves; and, I fear, that is the occaſion of falſe Muſters.

Sir *John Lowther*.] Parties have had their faults on all ſides; I hope we ſhall have no more diſtinctions for the future. If we conſider the ſtate of *France*, it is not ſo formidable as repreſented. Powder is now 10 *l*. the barrel, which, before the War, was but 20 *s*. The *French* King has melted his fineſt plate, which coſt three times its worth in the faſhion: He is in diſtreſs for naval ſtores from the North; and all the Northern Ports of the World are ſhut upon him: If you are maſters of the Channel, and ſupported by the Confederates, he will ſoon fall. King *James* has neither Money nor Men but from him—I hear it ſaid, "We have made ſoldiers of the *Iriſh*;" but the little Fort of *Newry* drove away 1800 *Iriſh*, and it never was attacked again. Conſider now, whether any thing

is requiſite in ſuch a Nation as this, but Unanimity. When the Account is brought into Order, you will know your ſtate, what is paſt, and for the future. When you have found all out, I hope you will not leave a man criminal unpuniſhed in the Government. If you find any man who lies lurking for a change, or is unfit to be employed in the Government, remove him.

Mr *Hampden*.] It ſeems, a State of the Account is deſired, from the time the Prince of *Orange* took the Adminiſtration of the Government. I would have all the Accounts, and explained; they are not all in one hand, but you may deduce it to every man. Things may be obſcure; though Gentlemen underſtand Accounts, as the way of the Treaſury, a man may be puzzled in a Merchant's book. There is an Abſtract ready of the Accounts, when you deſire it.

Mr *Garroway*.] I am very glad of this Debate, "To conſider the State of the Nation." I thought to have heard of foreign Affairs, of *Ireland*, our Allies, and *Scotland*, and now all ends in Accounts. If you will do no more, let us conſider in the Houſe how to raiſe Money to conquer *Ireland*; but pray conſider how we came into this ill condition, and how to get out of it. Conſider *Scotland*: I have ſeen ſome Papers why foreign Forces are there; and I have ſeen Papers why the Parliament of *Scotland* was put off: This confirms me what ſhould defend us from *France* and *Ireland*. I am not againſt taking Accounts, as is moved; but, if you will, I will make you a Motion; I will tune myſelf to give no offence. As for the Account of *Ireland*, I am ſure it is a wild one. I would know when a Muſter was taken, and what Account was given to the King; and then conſider what men have periſhed, and how the Muſter-Rolls are filled up. 'Tis ſaid, "There are but 7000 men in *England*;" I am ſo fond of the Church of *England*-Men, that I would not ſpend one of them in a War. When you have fixed on a Head, I will do you the beſt ſervice I can.

Mr *Hampden*, jun.] The buſineſs of Parliament is not this of Accounts, where we can never come to the bottom. Two things a Parliament can do; give Money, the great ſupport, and perſons to be employed next about it: I never

never ſaw a Parliament do any thing elſe to purpoſe. I am afraid, if ſome of the Perſons continue, we ſhall not find People to lend Money, nor know how to raiſe it. It is a man's own fault to ſuffer men to ruin him that have ruined him before. Look into your Books, and you will find thoſe now employed, voted "Enemies to the King and Kingdom, and favourers of Popery." If thoſe Parliaments were miſtaken, 'tis ſtrange! And hindering this King, who was come to deliver us, and bantering this King—That theſe three men who came to *Hungerford* from King *James* *, ſhould be the three greateſt men in *England*, I leave the World to judge. When *Portugal* ſet up the Duke of *Braganza*, and freed themſelves from the *Spaniard*, did they employ the King of *Spain*'s Miniſters? Did *Henry* the IVth of *France* make uſe of thoſe of the League for his Miniſters? The *Hollanders*, when they were redeemed from Popery and Slavery, did not employ the Duke of *Alva*'s Miniſters. If we muſt be ruined again, let it be by new men. I fear, the condition of the *French* King is not rightly repreſented to us; now he is providing Stores for his Ships, if we take wrong meaſures, and are miſtaken, it may be of fatal conſequence. The Rebellion in *Ireland* might have been eaſily ſtopped at firſt. I am for the Parliament doing what they can do to adviſe the King to take good men, and freſh men, about him. I am not for naming any, but for ſuch as have not ruined us already, and not Commiſſioners, who would perſuade the Prince of *Orange* to go out of *England*.

Sir *Chriſtopher Muſgrave*.] I find, all this Debate is contrary to your intent, and terminates in nothing but caſting up Accounts, *ſumma totalis*, to give more Money. I am glad to hear from an honourable Perſon, (*Lowther*) "That the *French* King is not ſo great as repreſented, and cannot ſupport the War a year." I am glad our condition is ſo much mended; but it is worthy your conſideration not to let the ſafety of the Nation depend on Foreigners. We are in a ſtate of War, and I would therefore ſee our Allies, what they are we muſt truſt to; but notwithſtanding

* The Marqueſs of *Halifax*, the Earl of *Nottingham*, and Lord *Godolphin*, were ordered to go to the Prince, and aſk him, what it was that he demanded. *Burnet*.

this repreſentation of *France*, I believe him a potent Enemy, and therefore I would ſee our Allies that we are to depend upon: And next, the condition of the Army, what it is, and then naturally will come before you the numbers, whether they are ſufficient to protect you. As for the Accounts, upon any Motion of the Houſe, you may make a new Committee to inſpect them. What our Armies are, and what our Allies, not what they are in paper, but what are dead, and how filled up:—Pray keep us ſtrictly to that Debate.

Mr *Hampden*, jun.] When the ſtomach is well rectified, all the juices will be well rectified. I meddle not with the Government. I am not for a Common-wealth, in the poſture now of Affairs we are in. I am for removing thoſe who were of King *James*'s Council, and who would have perſuaded the Prince of *Orange* to return.

Sir *Thomas Clarges*.] The Motions are ſo general, that no Queſtion can be put "For thoſe that came to treat with the Prince of *Orange*, (without naming any Perſons, or what they have done) to be removed," is a ſtrange Motion.

Mr *Foley*.] I would as willingly paſs by what has been done, as any man; but the Management has not been from Ignorance, but Treachery. I would let the King know what our fears are, leaving it to his wiſdom and diſcretion, without naming Perſons.

Sir *Edward Seymour*.] I ſhall preface my Diſcourſe with ſomething of Order, which I find not well obſerved. When Exception is taken at what falls from any Gentleman, poſſibly the latter part of his Diſcourſe may explain the former. We are to conſider "The State of the Nation," which I take to be very ill; whether by ignorance of thoſe that manage Affairs, or favour to King *James*, I ſhall not determine. Whether we look into *Scotland*, the Navy, the Army, or abroad, you will find it in ill condition. If the ſame hands ſtill manage the Government, either King *James*, or a worſe thing, may come amongſt us. We have no part of the executive Authority of the Government, but we may adviſe the King. To me it is all one whether we be undone by the Diſciples of *Hugh*, or the Converts of Father *Peters*; by the Counſellors of

King

King *James*, or the Favourites of King *William*: I ſay, 'tis too well known, too bare-faced, that ſome are ſetting up for "The Keepers of the Liberties of *England*," rather than the Monarchy of *England*. The general ſcheme of the State of the Nation is as much as we can repreſent to the King. I will urge that part no farther; thoſe who ſeem to avoid it have laboured to increaſe it. Does any man believe, that, if the War be carried on by the ſame hands, you will not have the ſame ſucceſs? It is not in our power to remedy the Miſcarriages, but it is to repreſent them to the King to be remedied. I know not what means "a Repreſentation of Perſons to the King that went down to the Prince of *Orange*:" Poſſibly, it was the beſt thing they ever did, to mediate Peace. You have matters enough to repreſent, the matter of the Navy, the Army, *&c.* The King very well knows who have done it; who have loſt his honour, and ſpent his treaſure: And I move for a Repreſentation of this kind.

Col. *Tipping.*] I wonder any man ſhould vindicate any Perſons that would mediate for King *James*; they cannot wiſh well to the preſent Government; and I move you to declare King *James* an irreconcileable Enemy to the Kingdom.

Sir *John Trevor.*] I would leave all to the King's wiſdom. We come not here to give him rules whom to ſuſpect, and whom not to ſuſpect. He is not to give a reaſon for that ſuſpicion.

Sir *Thomas Lee.*] For the little ſhare I have in Management of Affairs, I ſpeak with no envy or fear; I can juſtify myſelf as an honeſt man. I have ſat 30 years in Parliament, and I ever thought "The Keepers of the Liberties of *England*," the beſt Preſervation of *England*; that is, the King, Lords, and Commons. When *London* was fired, balls were ſuſpected to be thrown about; and thoſe that cried "Fire" out loudeſt, threw fire-balls about. We are now making a Repreſentation of Miſcarriages, a noiſe over the Nation: I am concerned for the King; as if the Kingdom was put into the laſt degree of deſpair, and we tell him not where it is, and will not tell him, and leave him to find it out. In *Charles* II's time, this was ſaid to be "Talking the Government out of doors." Show him the fault,

fault, and the Perſons, and not in generals, leſt you throw out the King and the Kingdom together.

Reſolved, That an humble Addreſs be preſented to his Majeſty, to lay before him the ill Conduct and Succeſs of our Affairs, in reference to *Ireland*, the Armies, and Fleet; and humbly to deſire his Majeſty, That he will pleaſe to take it into his conſideration, and, in his wiſdom, to find out the Authors of Miſcarriages, and to appoint Affairs to be managed by Perſons unſuſpected, and more to the [ſafety of his Majeſty, and *] ſatisfaction of his Subjects.

[Agreed to by the Houſe.]

[*December* 16, Omitted.]

Tueſday, December 17.

[Mr *Hampden* reports ſeveral Amendments to the Bill for continuing the collecting the public Revenue for a Year.]

Sir *William Pulteney.*] The Matter before you is of great importance. I cannot agree, *&c.* to the Amendment of the Bill, not to be determined by the ordinary Rules of *Weſtminſter-Hall*, but by the Government. There is a known Hereditary Revenue, and ſettled by Act of Parliament. When King *James* abdicated the Government, there was a Ceſſure of the Revenue, and it abated; but when you filled the Throne, ſuch as had legal Grants, they were not determined; I know not, whether they can receive the Revenue, but it is all the reaſon in the world that the Crown ſhould have a certain ſubſiſtence by Revenue. I think, ſuch a thing as the Revenue is not to be taken from the Crown by implication. If the Chimney-Money muſt be gone by the Abdication, you needed not to have made an Act to take it away. If you continue the words "and no longer," I fear, they will not only affect the Crown, but the Subjects too, that have had Grants.

Sir *William Williams.*] To ſtop the mouths of People, we are providing Laws againſt ill men, and for ill times, and therefore it was thought convenient to put in the words "and no longer." As to the new Revenue, the Cuſtoms and Exciſe, ſome part of the Revenue follows the Crown, as the ſhadow the body; but to ſay, therefore, all the Revenue does ſo, is no conſequence. Qualify that ſuppoſed Hereditary Revenue from the other, and I agree to it.

* Theſe words were added by the Houſe.

Says

Says *Pulteney*, "This may ſhake Grants;" but if they be good Grants by Common-Law, or Statute-Law, it ſhakes no more but what you would have ſhaken.

Mr *Finch.*] I riſe up to acquaint you how I apprehended the Revenue to be in 1688. When you come to ſay, "That the Revenue ſhall be collected for one year, and no longer," you determine the Hereditary Revenue. I think we have Declaration upon Declaration, and that Matter is pretty well at peace in you. If you put in the words "For one year, and no longer," you determine it. In the Chimney-Bill, if the Revenue had determined, you needed not that Act. If the Court of Wards was an Hereditary Revenue, then that granted in lieu of the Court of Wards, muſt be an Hereditary Revenue. *Thompſon* ſays, "No man will ſay, the Court of Wards was part of the King's Revenue;" but it is the King's Tenure, and he has the profit of the Lands and Wards. For taking away the Grants upon the Revenue, he is taking away the Revenue wholly to cure them.

Sir *Thomas Lee.*] That which is granted for the preſervation and good of the People, that ceaſes. I would willingly have the Long Robe inform us, whether thoſe Grants for King *Charles* II's, and King *James*'s life, continue for the King's life? I would have the Long-Robe diſtinguiſh. If each of them ſubſiſt, this Act is wholly unneceſſary. As to what *Finch* ſays of the Chimney-Money, why did the Parliament, 3 *Charles* I, mention "Quartering of ſoldiers," in the Petition of Right? I would make uſe of this Debate. If any of them be out, all are out. The Court of Wards, which was exchanged, was ancient in the Crown, but I queſtion whether the Crown had a right to diſpoſe of Wardſhips before they fall.

Mr *Finch.*] In the Petition of Right, one part is declaring an old Law, and another is making a new. The King grants a Wardſhip *cum acciderit*, and that anſwers *Lee.*

Sir *George Treby.*] To theſe words "No longer." The operation of theſe two words is to take away all the Inheritance of the Crown. To anſwer *Lee*'s Queſtion, the King might releaſe the Tenures of Inheritance of profit, that he had by the Tenure, as he did Wardſhips to the Town of *Yarmouth.* If the King can grant this, he may grant what is in lieu of

it,

it. In the former Bill, which is the pattern of this, there was ſome ſcruple made, whether they could ſafely collect it, (as if it was a new thing that Kings have abdicated, and given up their Crown before death.) All the nicety was upon collecting the Cuſtoms and Exciſe "during King *James*'s life." Some were for the political life, others for the natural; this had ſome doubt for the ſake of the Officers, and therefore the Act was entitled, "For the better collecting the Public Revenue." It was ſaid, and with great approbation, "We have Judges for life, and ſalaries, *&c.* how could that be, if it was not ſuppoſed the Revenue was not hereditary?" You go on, and ſay, "The King had not only delivered you from Popery and Slavery, but you yielded to give the King Thanks, for releaſing the Chimney-Money." The appropriating ſome of the Revenue to pay King *Charles* II's ſervants, and the Money to the States-General, by it you ſuppoſe the ſubſiſting of the Revenue, and you applied it to theſe uſes. All Prerogatives and Advantages whatſoever follow the Crown, and if they have the Crown, they have all that belong to the Crown. I think it ſtrange, when a Bill is brought in to ſatisfy a doubt, when, indeed, there was none; but to grant a Revenue, and charge it when you have done—will you determine the whole Revenue without hearing Counſel for the King?

Sir *William Williams.*] Certainly ſome part of the Revenue is not alienable, and, no doubt, on the other ſide, the King may extinguiſh his Wardſhips, by a Releaſe; but, whether the King may alien his Inheritance of Wardſhips, is another ſubject: I doubt it much.

Sir *John Trevor.*] The Exception is a good Exception, and I muſt apply ſomething to the one and to the other. I do agree, that "No longer" extends to all the Revenue; that part hereditary and temporary too: I hope you will not apply the ſame words to both. Under favour, this is a new Government: I will not deny my opinion: It was ſo in all broken times. In *Edward* II's time, *&c. Edward* III took all the Revenue, being in poſſeſſion of the Crown. *Henry* IV and *Edward* IV took it; and the Revenue continues when the Crown is upon any man's head. The opinion has been in *Weſtminſter-Hall*, "That the Revenue continues,"

continues," and the Cuſtoms were paid after the death of *Charles* II. Unleſs you put the words "No longer," in negative words, and let it go ſo.

Mr Sollicitor *Somers*.] If *Trevor*'s doctrine be true, we do grant this away for ever, by the words of the Act. In the Cuſtoms, the Grant laſts for life, and no longer, and no doubt of it. Now, for the Revenue granted for King *James*'s life, whether it laſts longer than his Reign? The Revenue of the Crown of *England* is granted as in the King's Politic Capacity as to an Incorporation. This will be of ſo terrible a conſequence, that, I hope, you will leave out the words "No longer."

Sir *John Trevor*.] I did not broach that doctrine. I uſe not to broach doctrines. I ſaid, "That it was the opinion in *Weſtminſter-Hall*, in King *James*'s time;" and, "that unleſs you put negative words in the Grant—it was ſubſiſting." If the words were neceſſary then, they are as neceſſary now—The Revenue was collected in King *James*'s time, and after *Charles* II's time.

Mr *Garroway*.] I think *Trevor* in the right. There was a Grant of the Cuſtoms of the Currants in King *Charles* I's time; ſeveral were impriſoned for not paying the duties, though granted for years only. The Expedient may be in the end of the Bill, *viz*. "That this ſhall laſt for one year, and no longer," and ſo leave it as you found it, and you'll do no hurt.

[The Amendments were rejected.]

On the Clauſe for ſaving Princeſs *Anne*'s Patent, or Grant, *&c*.

Mr *Boſcawen*.] I have as high an eſteem for the Prince and Princeſs of *Denmark*, as any man; and I would be underſtood not to ſpeak with reflection. For the firſt part of the Clauſe, the Committee had no power to confirm the Patent. To confirm this, implies a diffidence in the King and Queen. If the Hereditary Revenue be not fallen, it is ſtill in being.

Mr *Hampden*.] Your Inſtruction to the Committee was nothing but "To provide a Penſion for Princeſs *Anne* for a whole year;" and this Clauſe is not brought in according to that Inſtruction.

Sir

Sir *Henry Capel.*] I hear there is a Patent for this Penſion, but to take notice of it here, is an extraordinary thing, and the improperest thing to be joined with this Bill; it is joining braſs to clay, and not juſtifiable in the nature of it. There is an expreſſion in the Paper, which is an interdictive to the ſecond Clauſe of the Bill: What authority that honourable Lord (*Cornbury*) has to bring it in, I know not; but I am ſure he ought to have good Warrants. If your hands are tied up to ſuch a Clauſe, where is the Money to be received? In the Exciſe-Office? I do not know more Exchequers than one. Have a care; by the courſe of the Government of the Exchequer, any man may know what the receipts are, and ſee how Money goes out; at the Exciſe-Office they will not ſhow their books. This may be a countenance to other Grants of King *James*, which, I hope, you will not allow. Upon the whole, I think it much better to lay this aſide wholly. I would do that which ſhould expreſs reſpect and bounty, but this is not a proper time. In this great Revolution, this Prince and Princeſs were great inſtruments in delivering us from Popery and Slavery. 'Tis true, we are delivered from Popery and Slavery here, but there is another Kingdom that lies under it: Now every body, the very farmer, retrenches in his family, and trade is grown low, but when it is a proper time, no man ſhall be more ready to increaſe the Princeſs's Revenue, than myſelf; but I do ſay, there may be a time when the hearts of People will go more with ſuch a thing, and, I believe, it will be more acceptable to this Prince and Princeſs. This is very ſurprizing: As to our Conſtitution of the Exchequer, I would have it be more conſonant to the Government, that there may be no gift of Money here but to the Crown. Let the Preamble mention all reſpect imaginable, that the Arrears may be paid, and addreſs the King for a Revenue for the Prince and Princeſs, for this year, ſuch as the King ſhall judge neceſſary, this exigency of Affairs of the Kingdom conſidered; and hereafter it may be thought of; and, in the mean time, addreſs to the King to this purpoſe.

Mr *Foley.*] I think here are two Exceptions not to be anſwered. The firſt is, I think this Clauſe was not brought in according to Order. This Clauſe confirms the Letters Patent

Patent to the Princeſs, and the Heirs of her body, and that is againſt the Order, the Bill being but temporary. Next, I hope, though the merits of this Princeſs be great, yet that you will not break Orders of Parliament, when the Letters Patent were never read, which, by this Clauſe, you confirm, whether good, or no, and you know nothing that is contained in them.

Sir *Thomas Clarges.*] There is little difference betwixt this Grand Committee and the Houſe, only that in this the Speaker is not in the Chair. Your Order is, "To provide for the Prince and Princeſs for one whole year," and the Patents are confirmed but for a year, and no more. I take it, this Patent was poſſeſſed and legally inveſted in her. But "that, without reading the Patents, you cannot confirm them," that is a miſtake. In the Parliament of *Henry* VIII and *Edward* VI, where Letters Patent were granted from ſuch and ſuch a Prince to ſuch a time, it is impoſſible they ſhould be all read. By the Statute for Confirmation of all Cathedrals, and Colleges, from *Henry* III's time to *Henry* VIII, they were all confirmed. It is ſaid, "That now it is not a ſeaſonable time;" but is it not ſeaſonable that the Prince, and Princeſs, and the Duke of *Glouceſter*, ſhould have meat, drink, and cloaths? This Revenue is not very extraordinary, conſidering their quality. We are not to ſay here, "That the King was not conſulted in this." I hope it will never be admitted, that we ſhould take Inſtructions from the King to paſs Bills here. There was 24,000 *l.* a year charged on the Poſt-Office for the Duke of *York*, in lieu of the Charge upon the Exciſe, and the Exchequer never took fee of it. I think this is ſo juſt and ſo honourable to their merits, who forſook all their pomp, father, and mother, for our Laws and Liberties, with their lives too, in this Revolution, that I would agree to the Clauſe.

Mr *Hampden.*] I think this very hard, to pay this 70,000 *l.* this year: In the ſtate you are in, it is a very great hardſhip to the King and Kingdom. I ſhall deal as generouſly in the Offices I am in, as any man that would be in Office. I meddle not with this Patent; I think it a good Patent, but not regular to confirm it here. You charge this Branch of the Revenue with this; will you ſay the King ſhall receive for his Civil Liſt the other Part?

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The Queen then has not received this 70,000 *l.* If it be looked into, you ſhall ſee what is done. You have granted two ſhillings *per* pound, *&c.* and the King has liberty, by that Act, to take up 300,000 *l.* He has but betwixt this and *Saturday* next to take it up, and I gueſs very largely if there be 100,000 *l.* and that is to pay *Ireland*, and *Holland*, and the Army here. How much will be left of your two ſhillings *per* pound? The Exciſe that goes out, ſuppoſe 14,000 *l. per* week, that muſt go towards paying this. The Cuſtoms are 200,000 *l. per ann.* leſs this year than formerly, and here is all to maintain what I have told you. This is a melancholy proſpect. I move, to have the Letters Patent recited, and this Clauſe recommitted, and ſo much as they have by the Patent to be received, and no more.

Mr *Ettrick.*] I know not that the Methods of the Exchequer are more broken by this, than by Privy-Seals; but the moſt weighty Objection is, want of Money. As for *Capel*'s joining "braſs with clay," I am ſorry *Capel*'s opinion is, that no part of it is hereditary; we ſhould have gone a little farther, had it not been for the neceſſity, *viz.* the whole Revenue that was formerly the Duke of *York*'s.

Col. *Birch.*] My affections at that time did, in a great meaſure, captivate my reaſon. Since that, we have had time to ſleep, and my affections ſtand as high as ever they did. As to this Patent, the Queſtion is, Whether this Debate, as the Caſe ſtands, is ſeaſonable? I cannot but admire at my own weakneſs when they all agree (and ſomething gives them cauſe that I do not ſee.) I would do no no prejudice to this Patent, but I would augment the Princeſs's Revenue; but can any body ſay, this is ſeaſonable? Now our condition is low, will this turn to ſenſe, to be ſo laviſh to throw away 40,000 *l. per ann.* when the King wants for his and our protection? Is this like to create a good underſtanding with the King? Give me leave to go a little farther: I would lay aſide the whole Clauſe, and repreſent to the King the condition of the Princeſs. The Dutcheſs of *Cleveland* had a Penſion on the Exciſe; I told her, "It could not be, for it was contrary to Law, and ſhe muſt go to the Exchequer." I never made up any Account from the Exciſe but to the Exchequer, neither

neither can I. Our neceſſities are beyond expreſſion. I cannot anſwer it, but to lay aſide this Clauſe, and go to the King, *&c.*

Sir *Robert Cotton.*] This Debate is, as if 20 or 30,000 *l.* would ſave, or loſe, the Kingdom. The Duke of *Schomberg* was taken notice of in particular, and had 20,000 *l.* paid him, for his great generoſity in coming over. King *James* withdrew the Princeſs's Exhibition for ſome time, and now it would be hard to leſſen it.

Mr *Hampden*, jun.] For want of union in Royal Families, ill men have made uſe of it, and have either ruined, or given a great ſhake to them. There was a good underſtanding betwixt *Lewis* XIII, and his brother, the Duke of *Orleans*, who had a great Appanage: One Abbot *Rivier* was about the Duke of *Orleans*; what uſe made they of this? It proved the effuſion of a great deal of blood in *France*. This King of *France* (a great Politician) never gave his brother ſuch a Revenue, but a dependent Revenue, and he has lived well and eaſily with him, but dependent upon him. I know no other way, but to compare the paſt with the preſent. We know how in *England* the Conteſt was kept up between the Houſes of *York* and *Lancaſter*—The Princeſs has contributed very much to this Revolution; therefore I would put no difference in the Royal Family. There was a Motion, "That the Queen might have 100,000 *l. per ann.* diſtinct from the King;" but the Queen was willing to be without it. This Queen's Revenue is anticipated, and yet ſhe ſits ſtill without this. The Duke of *Schomberg* had a conſiderable ſum given him, and do you think that the King and the Queen will not have more affection for their ſiſter, than for Duke *Schomberg?* I would lay aſide the Clauſe.

Mr Sollicitor *Somers.*] The Proviſo is of two parts; one to confirm Letters Patent, and the other for an additional Revenue for the Princeſs. It is ſaid, "It was never the intention of the Houſe that the Letters Patent ſhould be declared good, and, therefore, not to be conſidered." If they were not referred to the Committee, no notice can be taken of them. I have heard of an attaint, and men never anſwered to it, condemned unheard, and ſo of Patents: I have heard the Patents read,

and, I believe, if they had been ſettled in the name of another man, they would have been much more for their advantage and ſatisfaction. Therefore that is one reaſon why I would not read them. It has been ſaid, "We are not to aſk the King's mind what to do here;" but if any man take upon him to ſay, "It is the King's mind," we ought to enquire whether it be true. We have Meſſages from the King on other occaſions, and why not on this? In the Caſe of the Duke of *York*'s Grant, *&c.* there was a Contract brought into the Houſe betwixt the King and the Duke. No man can more honour the Prince and Princeſs, or is more highly ſenſible of her quitting her King, and Father, than I, when I conſider ſhe had heard ſo much of Divine Right from the Clergy. Granting a Revenue, by Act of Parliament, to a Subject, is always dangerous in this Houſe. Though that of the King and the Duke was a Contract expreſsly recited, "Such Letters Patent as the King ſhould hereafter grant;" yet it gave power in the Act, to the King, to make that Settlement; and, I hope, it will be always done with the ſame ſecurity to the King, and ſatisfaction to the People. Here is a neceſſity of providing for the Royal Family. The Crown has always taken care of the ſeveral branches of it, by Offices, *&c.* and nothing can make all the Royal Branches depend upon the Royal Family more. The King muſt retrench, and ſo large a proportion to one of the Royal Family! I hope the Princeſs may have many Dukes, a large and a numerous iſſue, and that a Revenue may be provided for them; but for ſo large a Revenue to be granted now, by the Precedent of the Duke of *York*, is of dangerous conſequence, and was the beginning of our miſeries that we afterwards felt.

Sir *Edward Seymour*.] I wonder now, and it is matter of ſurprize to me, not to agree with the Committee. The objection is, the irregularity of the Proviſo; I ſay, it is regular, and, if it was otherwiſe, it is irregular. How can we provide for the Princeſs, and leave the Patent doubtful? It is objected, "It was never known that a Patent was confirmed, and never read;" it was offered to be read, and now made uſe of as if he had an Act of Parliament for it, and it tumbled down the ſtairs. If you will lay

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the Act of Parliament, in the Exciſe, a good payment, without the Exchequer, it is good, and they dare not deny the payment. Having gone thus far, I have one Argument, that if thoſe who have done and ſuffered ſo much for the Proteſtant Religion, ſhall not have marks of your Favour, I hope they ſhall of your Juſtice.

Mr *Hampden*, jun.] I think, *Seymour* has ſpent ſo much time in the *Weſt*, (*He had been long abſent*) and as Speaker of the Houſe, that he has not had time to read Hiſtory.

Sir *Edward Seymour*.] At leaſt, I hope to make better uſe of what I have read than that Gentleman.

Mr *Finch*.] If the Duke of *York*, the Heir preſumptive of the Crown, engaged in an intereſt againſt the Kingdom, ſhould have ſuch a Grant; ſure that has greater force when Perſons ſupport your Laws and Liberties. Which way ſhould this Proviſo have been brought in? Will you include or exclude theſe Patents? If you exclude the Patent, you muſt mention the Patent. It was ſaid, "If they are not good, you ought to make them good by Law;" and I deſire this Law may do it. It is ſaid to be "of dangerous conſequence to provide for the King's children;" if the Parliament will not, and the King cannot, how ſhall they be provided for?

Mr *Hawles*.] When *Charles* V, in his Will, gave great portions to his Children, Cardinal *Guimeni* ſaid, "If you provide thus, your ſon may ſet up for himſelf."

Mr *Godolphin*.] I am for agreeing to the Proviſo. It is ſaid, "This is not agreeable to your Order." By Rule, when you grant Money you are to go into a Committee of the whole Houſe; and that is an Objection againſt the whole Bill. The Method propoſed the laſt Seſſion was part of the Revenue for life, and part for years: I am ſorry that was not then complied with, which will be looked on oddly abroad by your Allies; will they be with you for your Revenue for a year, and no longer? The greateſt part of diſturbance is uſually for perſons not at their eaſe: Let the Princeſs be at eaſe. I believe, the King will not give ſo great a ſum as this, but at the recommendation of this Houſe.

Mr Attorney *Treby*.] I would leave this to farther conſideration, and recommit it. I find Gentle-

men, in the faſhion, making confeſſion of their Faith. When the Rights of Monarchy are invaded, and the Rights of the People, I think not fit for this company—If I call the Princeſs's virtues Apoſtolical, I am not amiſs. She left her Father, her beloved Mother, and dear half-Brother, for the Proteſtant Religion. This may tend to lay a foundation of diſtruſt between the King and the Princeſs, and then that ſhakes what we muſt all be ſafe in. Under colour of a year's Revenue, by this you bring in a Clauſe of Perpetuity. I think the Patent not invalidated by leaving out this Clauſe.

Mr Comptroller *Wharton.*] "What is orderly is not againſt the Order of the Houſe, but the Orders of the Court!" (*ſaid by Lord* Falkland) I was never ordered by the Court, and never will be.

Lord *Falkland.*] I did not ſay, "Any body was ordered by the Court," but "If as agreeable to the Orders of the Houſe, as to the Orders of the Court, you had not had this Debate." I meant the Order of "the Exchequer-Court:" I never followed the Orders of the Court in King *James*'s time) nor gave my conſent to bring a Perſon into that Parliament, though I was promiſed I ſhould be a Peer of *England.*

Mr *Godolphin.*] 'Tis ſlyly inſinuated by *Treby*, as if I was one for taking away Charters: But to condemn a Perſon whom the Parliament have voted innocent!——

Mr Attorney *Treby.*] I was ſo far from having him in my thoughts, that I heard him not. As to Lord *Ruſſel*, if my Lord was here, he would declare I had Lord *Ruſſel*'s Caſe; and I had Lord *Ruſſel*'s Caſe, and his Counſel's conſent for what I did.

Mr *Garroway.*] If it were poſſible, I would have no Queſtion. The King will hear what we do. I fear, a Queſtion may make diviſions. Hereafter, the King will take care of the Princeſs, and pray adjourn the Debate.

[The Bill was recommitted on the above Clauſe, 190 to 127.]

Wedneſday, December 18.

In a Grand Committee. On the recommitment of the Bill for the Revenue.

Col. *Birch.*] I conceive you have Order to debate, or lay

lay aſide, the whole Clauſe relating to the Princeſs. I think it is far better to debate the whole Clauſe; it will prevent loſs of time and miſunderſtanding—There may be honour to the Princeſs, and no benefit. Let Gentlemen conſider the ſcope of the Debate yeſterday, *viz.* "That it may be with honour to the King, and a noble ſubſiſtence for the Princeſs." I would rather lay it aſide, or make an humble Addreſs to the King, that her Arrears may be paid, and a continuation of her Penſion.

Sir *Chriſtopher Muſgrave.*] I think, *Birch* has miſled you; to debate it Paragraph by Paragraph, is the uſual method: Two have relation to one another, the others are diſtinct, and have none. Debates move regular if they are kept to the ſtrict Propoſition: For that which relates to other Patents, it does not ſtrengthen them, but rather weakens them, this Patent being directly named, and no more confirmed. In private Bills, you admit of ſaving Rights, and much more ſhould in this.

Sir *William Leveſon Gower.*] I move, that you will confirm the Patent, in conſideration of the Treaty between the two Crowns of *England* and *Denmark*, for proviſion of younger children. Here is but 30,000 *l. per ann.* on this conſideration. The Duke of *Schomberg* is General, and General of the Ordnance, the beſt places in *England*: I grudge them not the Duke; but ſhall we not confirm, now we have 10,000 *Danes* ſent over to fight for us? I would know whether it was agreed, that this Patent ſhould be confirmed by Act of Parliament? I ſuppoſe, when the Articles of Marriage were made, they intended to rely upon the King and the Patent; and, I think, it is as much reaſon now to do it, and they may have as good effect of it. It cannot be ſuppoſed but that the Princeſs may have better effect of this Patent, now ſhe is of the ſame Religion with her Siſter, than when ſhe was of a different Religion from her Father. When you ſettle the King's Revenue, it will be the proper conſideration, that ſhe have ſubſiſtence for a Year—I deſire that it may run plain, free, and clear, that it may laſt no longer than that term; it is in proportion, what you intend for either King or Queen. I move, "That you will order the Committee to draw up a Clauſe, or by Addreſs to the King, that this Allowance

to the Princeſs may be free and clear, in ſuch proportion, as large as it can go, for this Year, the condition of the Kingdom conſidered."

Sir *Chriſtopher Muſgrave.*] I am not for putting the Patent in better condition than it was before, nor worſe: If it be the ſame as it was before, I am not againſt it.

Mr *Garroway.*] I am one of thoſe that would have the Patent no better, and no worſe. I deſire only a ſaving the Patent, and I ſhall offer ſome words to it, *viz.* "That the Patent remain in as full force as it was before, notwithſtanding this Act."

Sir *Thomas Clarges.*] Since the Treaſury may be ſtreightened by this Proviſo, as it is apprehended, I do not believe this Revenue was in the Crown in 1688; and, ſince it is ſaid not to be in the Treaty, I hope they may provide for themſelves by Proviſo, as in private Acts. Theſe are Letters Patent upon valuable conſiderations. I know, a Clauſe in an Act of Parliament may take away the benefit of any Great Seal—Theſe Patents are ſaid to be "a Perpetuity," and, I think, this Clauſe offered is a reaſonable Clauſe. Though the King has taken great care of the Princeſs, yet others have not; ſhe has not yet had *Michaelmas* quarter; and now it is within ten days of *Chriſtmas.*

Mr *Sacheverell.*] I am ſurprized at what I heard this morning. Here are words offered neither to confirm nor invalidate the Patent. It is ſaid by another, "He would confirm the Patent," but that is more than you intend; therefore it is neceſſary to know the next Clauſe, what this is, that Gentlemen talk of a ſaving. If there be a good Title to theſe Patents, I cannot agree to confirming them, and there is no need of that nor the other. Let us know whether we ſhall confirm, or not confirm them.

Sir *Henry Goodricke.*] I am againſt the ſalvo of Marriage-conſideration, but if to be left in the ſtate you found it in, what is the meaning of the ſaving? There is ſomething in the graſs. There are certain Perſons put in Truſtees for this Patent, that are under illegal capacities, not qualified by the Teſt. There is one that is abroad (Lord *Sunderland)* eſpecially; will you put them in a capacity of this Truſt? I am not willing they ſhould be taken notice

tice of. I diſcover more; if this Contract of Marriage be allowed by you, every Prince that treats Marriage with you, will have it, as at *Paris*, regiſtered in the Court of Parliament. By this, you will put the Crown upon hardſhips.

Mr *Finch*.] I perceive, it is every body's opinion to do no advantage nor diſadvantage to the Patents. All men are of opinion that this Clauſe will do no hurt. If any of theſe Truſtees are in an incapacity, the others being not, you confirm ſuch only as are capable by Law. If Truſtees are attainted, it voids their Truſt, but it invalidates not the reſt.

Sir *William Williams*.] I am clearly for ſaving the Right of the Patents, and let them ſtand or fall upon their own bottom. There may be a jealouſy, but, I ſuppoſe, the deſign is, that the collection of the Revenue ſhall not hinder the Patent from its vigour and ſtrength. I would poſtpone this Clauſe.

Sir *Thomas Lee*.] According to the true Rules of Order, you are out of the way. I take it, when it is recommitted, it is as when firſt brought to the Committee. After all of it is gone over, Gentlemen may preſent a Clauſe.

Sir *Chriſtopher Muſgrave*.] I think you have nothing committed to you but the Clauſe. I move, to have it poſtponed.

Sir *Thomas Lee*.] I will only juſtify point of Order. Why was it recommitted? It was, becauſe it went farther than the Houſe ordered.

Sir *William Williams*.] The Clauſe provides more for the Princeſs, than the King; therefore I would lay it aſide.

Sir *William Leveſon Gower*.] I offer theſe words to the Clauſe, "That, whereas the Prince and Princeſs have been highly inſtrumental in this happy Revolution, the ſum of **** be given them, *&c.*"

Sir *Thomas Lee*.] I think an Addreſs to the King as ſtrong as any thing you have had propoſed, but to enact this Clauſe, is not leaving it to the King; he muſt do it, or part with the Bill. In the caſe of the Duke of *York*, that was mentioned, the Commons did not grant it to him, but

deſired the King to confirm ſuch Letters Patent. Pray look over that Grant, and make it ſo, as that the King makes the Grant.

Mr *Garroway*.] I would have the Clauſe run in this Bill, "That the King would order ſo much Money as we ſhall name in this Houſe;" ſuch a Clauſe, I think, as obligatory as an enacting Clauſe. Again, I would name a ſum that the Prince and Princeſs may have ſo much for this Year, that the King be enabled to appoint that ſum you ſhall name, by quarterly payments.

Mr Comptroller *Wharton*.] I am ſorry for the Debates and heats yeſterday; I feared an ill conſequence, but, I hope, there will be none to-day. As for the Motion I made, I had not been at the Court of Exchequer, nor the Court at *Kenſington*, for it, but I heard the King ſay, "He would be content that the Prince and Princeſs ſhould have an allowance for their ſubſiſtence:" And I move for an Addreſs accordingly. I have no Orders to propoſe it, but, as from myſelf, I move, "That they may have the addition of 20,000 *l. per ann.*"

Reſolved, That an humble Addreſs be made to his Majeſty, that he will be pleaſed to make a Proviſion for the Prince and Princeſs *Anne* of *Denmark*, of 50,000 *l.* [in the whole, for the year,] beginning at *Chriſtmas* next. [Agreed to by the Houſe.]

December 19, and 20, Omitted.]

Saturday, December 21.

On the State of the Nation.

[Mr *Hampden* reports, from the Committee, the following Addreſs, which he read in his Place; and afterwards delivered the ſame in at the Clerk's Table:

"We your Majeſty's moſt dutiful Subjects, the Commons, in Parliament aſſembled, having ſeriouſly taken into our conſideration the State of the Nation, and being deeply ſenſible of the ill conduct of public Affairs, and the unhappy ſucceſs of them, as well in reference to *Ireland*, as to your Majeſty's Armies and Fleet, do think ourſelves obliged, in duty to your Majeſty, and in diſcharge of the Truſt repoſed in us by thoſe we repreſent, moſt humbly to lay before your Majeſty the (inexpreſſible) wrong that hath been done to your Majeſty, and your People, and the preſent imminent danger of this Kingdom, and of all your Majeſty's Proteſtant Subjects, from the want of ability or integrity in thoſe who have had the direction of the ſaid Affairs, and by whoſe Advice not only the

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reducing of *Ireland* has been obſtructed, but the Treaſure of this Kingdom waſted, and the lives of many brave Soldiers, and able Seamen, loſt, without any ſuch ſuch ſuitable Effect as might reaſonably have been expected.

" We cannot but reflect, with the utmoſt grief, upon the neglect of relieving *Ireland*, during the firſt months of your Majeſty's Adminiſtration, when your Majeſty's Miniſters did not uſe ſuch effectual means as were apparently neceſſary to have prevented a War in the ſaid Kingdom: And, when the Earl of *Tyrconnel* had levied Forces to oppreſs and deſtroy your Majeſty's Proteſtant Subjects, neither Men, Money, nor Arms, were, for a long time, ſent to enable them to defend themſelves and their Country; inſomuch, that, without mentioning other Particulars, ſeveral thouſands of them periſhed miſerably in the Town of *Londonderry*, for want of timely ſuccour *: And when, after many neglects and delays, an Army was appointed for *Ireland*, neceſſary Proviſions were wanting, and Matters ſo ordered, that the Endeavours of your Parliament, and the Supplies granted for that Service, proved ineffectual; at the ſame time that many ſuch experienced Officers, as were known to be Enemies to your Majeſty and your Government, were ſuffered to go beyond the Seas, where they entered into the late King *James*'s Service, and have, ſince that time, been his chief Inſtruments for carrying on the War in *Ireland*.

" The Miſcarriages in reference to the Fleet, have been as deſtructive to your Majeſty's and your People's Intereſt, as thoſe in the Army; many of your Majeſty's Subjects having been ruined, and others greatly damaged in their Eſtates, by the want of Station-Ships and Convoys; and ſome Sea-Officers, whoſe duty it was to have convoyed the Ships of *Engliſh* Subjects, exacted Money from Merchants, and unneceſſarily preſſed their Men †; by which means, Trade was diſcouraged, your Majeſty's Cuſtoms diminiſhed, and many of your loyal Subjects impoveriſhed: Your Majeſty's Fleet was alſo ſerved with unwholeſome and corrupted Proviſions ‡, which cauſed the death of many of your beſt Seamen, and has deterred many others from the Service.

" It will be too tedious to multiply inſtances of Miſcarriages and ill conduct in your Majeſty's Affairs, through the ill Advice of thoſe who have undertaken the Management of them, to which the Succeſs, in all Points, has been anſwerable.

" Our remedy, under God, conſiſts in your Majeſty's Wiſdom, and Affection to your People; which, we doubt not, will incline your Majeſty to hearken to the Advice of us, your dutiful Commons, who do moſt humbly beſeech your Majeſty to take the above-ſaid Matters into your Conſideration; and, in your great Wiſdom, to examine into, and find out, the Authors of Miſcarriages, and to appoint Affairs to be managed by Perſons unſuſpected, and more to the Safety of your Majeſty, and the Satisfaction of your Subjects."]

Debate.

* *See p.* 270, Note † *See p.* 430. ‡ *See p.* 441.

Debate.

Mr *Howe.*] I find we are in many ſtreights, and this Addreſs is to remove ſuſpected Perſons. I have not ſeen much ſucceſs from Addreſſes this Seſſion, eſpecially when we addreſſed to know who recommended *Shales* *, and the King "cannot poſſibly give you an Anſwer." This muſt be anſwered with another Queſtion; Who they are you ſuſpect? Partly on one ſide, and partly on another, and a moderate party ſuſpects them both. If you would remove all the fat and the lean, all fair and brown, then I ſhall know who you mean. All that were for King *James*, and all that are for himſelf, that thoſe ſhould be forced out and removed—Pray let the Addreſs lie upon the table till it falls under the table; it is the beſt uſe you can make of it.

Serjeant *Maynard.*] The Prince of *Orange*'s coming in was a miracle, and that thoſe that helped him in were not deſtroyed. The Addreſs about *Shales* came to nothing, and, as for the Money you have given, I know not what is become of it. When *Henry* IV came in, upon *Richard* II's Abdication, a Parliament was in being, but the Writ fell upon it; but that Parliament ſat, and Laws were executed that they made, and are Laws to this day. The Commons addreſſed, "That his Confeſſor might be removed quite from him;" the Lords joined with them. The King anſwered, "He knew no fault by him, but ſince the Commons did ſuſpect him, no man ſhould abide in his Houſe to the diſpleaſure of his Commons." There were two Popes at one time, and *Europe* was divided upon it; the Commons made a Requeſt to the King to acknowlege the Anti-Pope. Now I have told you this, make what uſe of it you pleaſe.

Sir *Thomas Lee.*] About a week ſince, you ordered this Addreſs †, and the Houſe was extraordinarily unanimous in ſo great a thing; but it ſeems to me now that there are more doubts in it than did ariſe at firſt. All this will require ſome conſideration who you ſhall faſten upon; elſe, you will alarm the Nation at the ſame time. If you change your minds in this Addreſs, it will look like coldneſs; if the buſineſs of the day be retarded, you will hinder that

* *See p.* 461. † *See p.* 490.

great

great Affair. I move, "That you will adjourn this till after *Chriſtmas*."

Mr *Hawles*.] Some Charters were granted by the late King—Some were very ill Truſtees in the management of the Revenue; if you continue them ſtill, you ought to ſee firſt who the Perſons are. We have had no effects, this Parliament, of our Addreſſes but one, and that was againſt *Ludlow* *. Many Preferments have been to Biſhopricks; Mr *Johnſon* has not been preferred. If you go on, on a general Addreſs, I doubt you will have the ſame ſucceſs. It was ſaid by an old Gentleman, "It was one of the beſt Acts one of the preſent Miniſters ever did, to endeavour a reconciliation between King *James* and the Prince of *Orange*;" I think, thoſe that did it ought to have no Preferment; and you have ſome in *Weſtminſter-Hall*, where honeſt men ought to be. I would not have ill men either in *Weſtminſter-Hall*, or *Whitehall*. Do you think fit that Mr *Blaithwaite* ſhould be in office to govern all the Army? If there had been a reconciliation betwixt King *James* and the Prince of *Orange*, what would have become of the People? They had been in worſe condition than before, and the end of that would have been a Common-wealth. The very Papers in Col. *Sidney*'s cloſet, tending to that, judged him guilty of Treaſon. The People will find a Head, or make a Head. I am ſure it is very natural, that thoſe Gentlemen ſo employed did what they could to obſtruct the Bill of Excluſion; not a man of them can draw ten men after them. When the Prince of *Orange* came in, by the good will of the People, they were for a Regency, and that is a Common-wealth. I am for removing thoſe, for, I am ſure, they are for a Common-wealth.

Mr *Foley*.] The Addreſs, by your Vote, is to be conſidered to-day, and laſt night the Votes went all over the Nation, and ſhall we now put this off? I ſee no reaſon for it; the ſooner it is done, the People will be better ſatisfied. Pray go on with it.

Mr *Hampden*, jun.] Though it has been moved to put this Addreſs under the table, (by *Howe*) I know not the reaſon of it; it is incomprehenſible to me: I would know the meaning of it.

* *See p.* 398.

Sir

Sir *Richard Temple.*] I fear, that, by this Addreſs, you will make reflections on the Government; you cannot cure it, now you have read it. Go to the Order of the Day, and read it when the Houſe is full.

Sir *William Leveſon Gower.*] If this be purſuant to your Order, we reflect on ourſelves not to proceed: Read the Addreſs, Paragraph by Paragraph: But let not ſuch a reflection lie upon us, to let ſuch a thing lie ſtill; and now to go upon another thing.

[*Reſolved*, That the Addreſs be read a ſecond time, Paragraph by Paragraph.]

The firſt Paragraph was read.

Sir *John Guiſe.*] Now we are going to preſs hard upon all the Counties of *England*, they ſhould be ſatisfied that you put their Money into hands unſuſpected. If the Addreſs be not full enough to your opinion, recommit it.

Serjeant *Wogan.*] I cannot call this an Addreſs; it is a Libel, in ſome part of it: Pray recommit it.

Sir *Robert Rich.*] I think, the Gentleman calls it "a Libel." The Commons now ſit "On the State of the Nation," and a Member calls it "a Libel!" I move, That the ſtanding Orders of the Houſe, in ſuch caſes, may be read.

Sir *William Williams.*] I am ſure, freedom of Debate is the life of this Houſe. I muſt agree, that, if an Act, or Vote, of the Houſe be called "a Libel," it is a great offence; but when things are *in fieri*, (a doing,) Gentlemen may uſe ſharp arguments in that caſe.

Serjeant Wogan *proffering to ſpeak*,

Col. *Birch.*] Pray keep to Order. If the words be agreed by the Houſe, then you hear him, but not till then.

Mr *Smith.*] I will not juſtify the words, but I would not be too ſevere upon the Gentleman. I remember ſeveral expreſſions this Seſſion: I deſire the Gentleman may explain himſelf.

Sir *John Guiſe.*] If *Wogan* cannot find wherein the Order of the Houſe is tranſgreſſed by the Committee that drew the Addreſs, it is a reflection upon the whole Houſe. When within doors this is called "a Libel," what will it be called without doors? I think there is ſo much weight in the Addreſs, that it is, whether you will continue King

William,

William, or call in King *James*. I would not have it ſlight or light, but it cannot be valued without doors—I would have *Wogan* aſk the Pardon of the Houſe in his place.

Serjeant *Wogan*.] I humbly aſk Pardon of the Houſe if I gave offence.—*And ſo this went off.*

Mr *Foley*.] I wonder, Gentlemen are for recommitting this Addreſs, and yet find no fault with it. What has your Committee to do to draw an Addreſs without your Inſtructions?

Sir *William Williams*.] The Exception to it is, "That it is not home enough:" I take it, it agrees with every particular of the Debate. I took it for the ſenſe of the Houſe, that the Committee ſhould name no Perſons. If your Committee had prepared you ſuch an Addreſs, it had been juſtly exceptionable.

Mr *Howe*.] I told you before, "That the King would make no Anſwer to your former Addreſs." I ſuſpect a ſort of men about the King and Queen that are not fit to be employed, who were for taking away the Teſt, and the Penal Laws, and for the Diſpenſing Power, and taking away Charters. They cannot be ſuſpected to be for King *William*, for they have acted as if for King *James*. If theſe men are fit to be entruſted, ſay ſo; but if the King pleaſe to enquire, and turn them out, that is fit to be Inſtructions to the Committee.

Mr *Hawles*.] I reflect upon nobody in the Houſe; but, if it be your opinion not to continue thoſe about the King, that had a hand in Murders, ſay ſo. If they have given Money for their Places, let them be rejected.

In the firſt Paragraph, the word "inexpreſſible" was rejected.

On the next, "Direction of Affairs, *&c.*"

Mr *Hampden*, jun.] *Lowther* ſaid, "There was good Counſel, but ill Adminiſtration." Was the King counſelled to ſend men and proviſions into *Ireland* timely? If ſo, then there was ſome counter-counſel.

Sir *Richard Temple*.] To what purpoſe ſhould you put the King to examine it, when you have determined it already? To lay ſuch a Charge is not a neceſſary direction to the Committee. Poſſibly, great Miſcarriages have been,

but

but ſuch as could not be avoided. Here you aſſert "Want of integrity and ability;" you ſettle the matter of fact, without making any enquiry.

Mr *Foley.*] When the Prince of *Orange* came to the Adminiſtration of the Government, there was great ſtore of ammunition and proviſion that came from *Holland*; and ſhips at *Plymouth* were ready, but nothing muſt be done; ſo they ſuffered the poor people there to be loſt, and, notwithſtanding, all the Addreſſes, you had a Report that the proviſions were bad, and, therefore, fit to be ſold. I think the King has thoſe about him that betray both King and People, and ſhall nobody be to blame? Lay the Miſcarriages before the King, and he can tell who were forward, and who were backward, in his ſervice: And I think the Committee has done well.

Reſolved, That the Addreſs be recommitted, upon the Debate of the Houſe, to the ſame Committee.

[*December* 23. The King paſſed three Bills, in the Houſe of Lords, and the Commons afterwards adjourned for a week.]

[*Monday, December* 30.

The Speaker reports, That he had attended his Majeſty with the Addreſs relating to the Prince and Princeſs *Anne* of *Denmark*; and that his Majeſty was pleaſed to return this Anſwer:

"*Gentlemen*,

"Whatſoever comes from the Houſe of Commons is ſo agreeable to me, and particularly this Addreſs, that I ſhall do what you deſire of me."

December 31, *January* 2, 3*, 4, 7, 8, and 9, Omitted.]

Friday, January 10.

An ingroſſed Bill for reſtoring of Corporations was read the third time.

Mr *Sacheverell.*] That this Bill is very neceſſary, no man but thinks. Surrenders of Charters are crimes notorious, but all are not equally guilty of it. I tendered one Clauſe the other day, "That thoſe that did it either wilfully, maliciouſly, or for their own lucre, ought to have a mark ſet upon them," but not to extend to all Perſons

* A farther ſum of one ſhilling in the pound, for one year, was, this day, *Reſolved*, To be laid upon Land, *&c.*

alike

alike. When I drew the Clauſe, I conſidered the times and circumſtances they were done in; thoſe that did it either to ſerve ends of their own, or thoſe of the wicked times; I looked little farther, ſeeing *London* did defer their Cauſe as far as they could: Some men, through fear, ſurrendered what they could not withſtand; therefore, to be liable to that ſmall puniſhment, the Houſe put out the word "Majority," and made it general. I thought it too large; I have conſidered it ſince, that going ſo large is too far. My opinion is, to look back only on them who came voluntarily, without conſent of the Majority, and ought to have marks; and, after the City-Charter was taken away, it might induce the Majority to ſurrender. I could be content to excuſe thoſe from this diſability. I cannot ſuppoſe they did it maliciouſly: Therefore, as a friend to the Bill, I proffer a Clauſe, "For incapacitating, for ſeven years, all ſuch as had any ways acted in the ſurrender of Charters of Corporations, from bearing any Office in the ſaid Corporations."

Sir *Thomas Clarges.*] I am againſt this Clauſe. This Bill comes with a good proſpect; in a great meaſure, it is a good Bill; but this Clauſe is deſtructive to the peace and quiet of the Kingdom; inſtead of reconciliation, it lays the foundation of perpetual diviſion. I think, it will become the wiſdom of this Houſe to make this a Bill of peace and quietneſs. In *Hackwell*'s Book, I find, "Where Proviſo and Clauſes are contrary to the matter of a Bill, and altered, as in a Bill of Clothing, the Houſe diſliked a Clauſe, and threw it out." Upon theſe grounds and conſiderations, conſidering the fatality of it, if ſome expedients prevent it not, I deſire the Clauſe may not be read, but rejected.

Sir *Walter Yonge.*] I am for the Clauſe, for the reaſon *Clarges* gave, "For the peace of the Kingdom." Where a Clauſe is ſo fair as this, nobody can be againſt it, but ſuch as approve of all the villainies of the Surrenderers. Thoſe who would have brought in Popery and Slavery if they had power, would do the ſame thing again. They abhorred Parliaments, and Petitions for their ſitting, that only humble remedy. When ſuch a Clauſe is offered, that Corporations

porations be put into the hands of good and moderate men, I would not have it rejected.

Mr *Hampden.*] If we get into this way, we ſhall not have done till to-morrow. One moves, That the Clauſe ſhall not be read, and gets into the merits of the Bill: The proper Queſtion is, "Whether this Clauſe ſhall be read?"

Mr *Roberts.*] As this Bill is now, it is a moſt pernicious Bill. It came a good Bill from the Committee, but the additional Clauſe has ſpoiled it. It was brought in in a thin Houſe, and, I hope, you will reject it in a full Houſe.

Sir *Chriſtopher Muſgrave.*] Pray keep us to the Queſtion, Whether you will read the Clauſe, *&c.* When in Debate, Gentlemen ought to conform themſelves to modeſt expreſſions, and not to be told of "Juſtifying all the villainies that have been done." I think, with ſubmiſſion, you ought, Mr Speaker, to correct ſuch expreſſions. I think this Proviſo not capable of Amendment. In opening the Clauſe, *Sacheverell* told you, "It muſt be proved that the Majority made the ſurrender," and yet there is a difficulty; for, he knows, whole books have been ſtolen away by the Town-Clerk; and a man runs the riſque of proving himſelf qualified, without any Record to ſhow.

Lord *Falkland.*] I think *Sacheverell*'s Clauſe irregularly brought in, and, indeed, the whole Bill, when you had paſſed the body of the Bill; and this Clauſe is a contradiction to the whole Bill. This Clauſe takes away the rights of thoſe you would ſave. The Clauſe takes away the rights that were reſtored by the Prince of *Orange*'s circulary Letters. It is dangerous, now the King is going out of the Kingdom *, to diſcontent ſuch a body of People. I am more afraid of the conſequence of this, now People are generally diſſatisfied. This Bill is a reſtoring of Corporations, and not a Bill of Pains and Penalties. This clauſe is improper for this Bill, and for the preſent circumſtances of affairs, and I would have it rejected.

Sir *William Pulteney.*] I attended this Bill the laſt Seſſion, and this, which, I muſt ſay, he brought in irregularly to take away free-holds, and diſfranchiſe men, and this without leave of the Houſe; a very extraordinary pro-

* His Majeſty had declared his intention of going in perſon to carry on the War in *Ireland.*

ceeding!

ceeding! As to the form, very angry and very naught! 'Tis too general. You may puniſh thouſands; dangerous at this time. The Bill ſays, "They ſhall be reſtored, *&c.*" and the Proviſo ſays, "They ſhall not be reſtored;" a contradictory Clauſe! Whole ſhoals of men will be put out by this, many terrified, and no reaſon to puniſh this ſort of men. Suppoſe an armed force come to my houſe, and ſay, "Give us quarters, or elſe we will plunder and burn your houſe:" The terror upon theſe men juſtifies the thing. Twelve red coats in *Weſtminſter-Hall* are as great a terror as an armed force. I am not fond of falling upon Addreſſers and Abhorrers—This is not the way to make friends for the King nor the Government. You have ſeveral Precedents (though one cannot ſpeak againſt the body of the Bill) yet if a Clauſe be not according to the intention of the Bill, it may be thrown out; and I would reject this.

Mr *Hampden.*] I have heard of one Parliament that has arraigned another, but never heard of one Parliament that has complained of itſelf to its own face. Your Bill ſays, "All ſuch and ſuch ſhall be reſtored, except ſuch and ſuch;" and it is no contradiction certainly. Do you intend to reſtore all thoſe to act the ſame thing again? You are told, "It may be taken care of in the Bill of Pains and Penalties;" but will you reſtore them to Corporations that have betrayed them, and let them do it again? The Proviſo cannot be rejected. Now you are told of Precedents; if they are examined, they are not to this point. I do not remember a whole Clauſe cut off in a whole Bill. What you have to mend in an ingroſſed Bill muſt be mended at the Table. It is a ſtrange ſort of mending a garment to cut off a ſleeve. It is ſaid, "This may be reſerved for the Bill of Pains and Penalties," and there will be none. Pray paſs the Bill.

Serjeant *Maynard.*] I have heard that to-day which makes my ears to tingle. The caſe is, here is a Bill brought in to reſtore Corporations, and it is moved, to caſt out this Proviſo. It has been committed, and ordered to be ingroſſed, and a Gentleman comes and prays that it may be thrown out; certainly he is but a young Parliament-man. To move to caſt out the whole Clauſe, you put it

on an everlaſting Debate; if there be no Penalties, you had better like what King *Charles* and King *James* did. If thoſe Surrenders ſtand, they may make what Parliament they will at Court; and, formerly, he that ſhould have named ſuch a thing, ſhould not have come to the Bar, but gone to the *Tower*. Why may they not as well move to caſt out another and another Clauſe, till they have left none in the Bill?

Sir *Henry Goodrick*.] You are told of "Making ears tingle," and of "The Court making a Parliament;" and by another, "To juſtify all the villainies, *&c.*" It is a Bill not good in itſelf to let in all mankind into Corporations; Fanatics, *&c.* If all theſe muſt be left out of Corporations, whom avarice, force, and eaſineſs have induced to ſurrender their Charters, if all theſe muſt be left out, whom will you leave to act; whom will you leave to chuſe Parliament-men? None. Harmony muſt ſave us; when this is a Bill of heat, a Bill of Attainder, where will this end? No man knows. Till you let us debate freely in this Houſe, I deſire to withdraw from my attendance. I would have *Yonge* explain, or be called to the Bar.

Mr *Garroway*.] It is moved, "That *Yonge* ſhould explain." If the Gentleman would have made exceptions, he ſhould have done it immediately. The Houſe has been divided ſince, and it is againſt all Order.

Sir *Thomas Clarges*.] *Yonge* is a young Gentleman, and, I believe, what he reflected on me was paſſion; and I would deſire you to paſs it by. I have been told by *Hampden*, "That I talked like a young Parliament-man;" I could wiſh he could make his words good. I wonder at this from a Gentleman converſant in Records, for *Hampden* to ſay, "It has not been done in his time," when it has been done. In great emergencies it may be done. We ſat from nine till four in the morning about *Skinner*'s caſe, and I remember what Mr *Vaughan* ſaid, "That Precedents cited without Records were ſo many nothings." I have not yet ſpoken to this Clauſe. What I ſaid was only as to Precedents. I know a Corporation of 600 *l. per ann.* adviſed by this Lord Chief Juſtice to ſurrender, or elſe, if judged againſt them, the lands would go to the next heir of the granter, *&c.* Hundreds of innocent perſons

ſons would have been involved. In the third Seſſion of the firſt Parliament of King *James* I, *Page* 64, *&c.* you will find the Precedent I ſpoke of. I will make this uſe of it; if it appears that a whole Proviſo is taken out of a Bill, it may be done again.

Sir *William Williams.*] The Motion made is for rejecting the whole Clauſe. It is one thing to reject, and another to correct a Clauſe, to be mended by the Clerk at the Table. But if the whole Clauſe ought to be recommitted, you conſider whether any thing be good in it before you wholly reject it. This Clauſe is an Exception of ſome before 1685, and not to be reſtored. Do you reſtore them to their Franchiſes? What are theſe Franchiſes? Will you reſtore theſe men, who have been the worſt of men, and betrayed their truſt, into the plight of an innocent man, and reſtore them to their places again? Is there not a middle way? I agree to the wilful and malicious man—Will you put it again into the power of the greater? I would make them the leſſer men, and take off the greater. By this day's work the World will ſee we are a divided People. This Proviſo ſets only a mark upon ſuch men. In ſome Corporations, of 600, who had a right to give conſent to a Surrender, not above thirty-four were for it; and they prevailed: And how came this about? This was a packed Common-Council by Lord *Jeffreys.* There are 500 ſtill in being at *Cheſter* againſt the Surrender, but becauſe a few in Corporations are concerned, muſt you let the whole be loſt for the ſake of a few? Can we forget the Law for regulating Corporations? Can any thing be ſaid for this, that cannot for that? Becauſe Diſſenters, in the firſt regulation, were put out, and the Church of *England* came in, can any man argue for that Act of Parliament that does not argue for this Proviſo? That Act did good in *Charles* I's time, and this may do good in King *William*'s, to put out thoſe that would go back again. I would recommit the Proviſo.

The Clerk read ſome Precedents of 1607. "*Ordered*, That a Clauſe be eraſed out of the ingroſſed Bill for Cloathing. In the Bill for repealing the Clauſe of the Statute about Ferry-men, and Water-men, it was agreed, by the Counſel on both ſides, to be ſtruck out; which was preſently done at the Table."

Mr *Howe.*] I am almoſt afraid to ſpeak; it is almoſt as hard to ſay what is talked, as to be of every man's opinion in this Houſe. I hope all here ſpeak their opinions candidly. I did hear a reflection that I wondered at, and that I would not have made, (*Goodrick* on *Maynard.*) I would have the Church of *England* ſettled, without their paſſive obedience. I would never willingly part with any thing eſtabliſhed by Law in that Church. But theſe men have delivered up their Charters, depriving of their right children unborn. The Queſtion is, Whether you will let them in to all they have pretence to, or take away all we have pretence to. Corporations did chuſe ſuch as were for Court purpoſes; I would ſecure it on that ſide, though I hope it will never be attempted there. Thoſe who are ſure to be ſubject to thoſe paſſions, I would not truſt to chuſe Parliament-men. How ſafe can we be, when ſuch men are the originals of our miſery? It was that party that the Prince of *Orange*'s Declaration principally made at. The point is not, Whether it is fit to do it, but whether now. I am ſorry the Expedients are refuſed, but if you put it to the Queſtion, "Whether this Clauſe, or this Bill paſs," I cannot let ſo uſeful a Clauſe be loſt. I think this is no puniſhment; it takes off a great trouble from theſe men, and frees honeſt men from fears. The propereſt thing you can do, is to put them out of power. You may moderate this Clauſe by puniſhing the Principals.

Mr Sollicitor *Somers.*] As for the Precedents produced, they are not to this caſe; the caſe of the Ferries relating to a particular perſon where Counſel was heard, and both parties agreed to leave the Clauſe out. This Proviſo was offered in the Houſe, received Amendments, and the Queſtion was put, and it was voted part of the Bill. If the Queſtion be, "Whether this Proviſo ſhall be part of the Queſtion," it is undoing what you have done, and I dare boldly ſay, there never was a Precedent of ſuch a thing. The Houſe are obliged to anſwer the objection (and not I) to the irregularity, for they admitted it. To deſtroy Corporations, and to make Parliaments at the pleaſure of the Crown, this is the thing, and theſe perſons are complained of for it. This is the worſt means to arrive at the worſt ends imaginable; they have broken their

oaths

oaths and truſt to ſubvert the Government. Is there any thing more juſt and natural than that theſe offenders ſhould be laid aſide? And to put theſe men out of condition to play the ſame trick again! All you reſtore were the old Members of the Church of *England*, but not that corrupt part of the Church of *England* who endeavoured to deſtroy the Government. Honeſt men are now Electors, to ſupply the place of thoſe ill men. If they have a mind to betray you; they cannot, they muſt be qualified by the Teſt-Act. Are not theſe the ways you diſtinguiſh them from the Church of *England?* None others can come in. I am ſorry it ſhould be ſaid, "No body is fit to be truſted but ſuch as are branded with this reproach." And they will be as juſt to the Government as they will be to the Church, true Church of *England*-men. All thoſe men that were in the firſt part of this matter, were either for private ends, or worſe ends; though I hope it was not for that end that this Clauſe was refuſed. I doubt not but Corporations will be ſupplied by Church of *England*-men; they can have no others. It is ſaid, "This is a Bill of Pains and Penalties;" but you are not doing that; you are only laying them aſide, that, you have had experience, would have betrayed the Government. There is no poſſible inconvenience in this Proviſo; you will have better men and unſpotted men in their ſtead; therefore I would not reject the Clauſe.

Mr *Foley.*] The Queſtion is, "Whether this Clauſe ſhall be rejected, or not?" It was endeavoured, the two laſt Reigns, to pack a Parliament to ſubvert all our Conſtitutions. There was a deſign for a Clauſe in a Bill "That all Corporations ſhould ſurrender their Charters by ſuch a time, or elſe they ſhould be void, and Juſtices of the Country ſhould act in all towns, *&c.*" Had that deſign ſucceeded, there had been no need of *Quo Warranto's*. Your Books will tell you, it was not in the power of that Houſe to make ſuch an alteration. It was part of this King's Declaration to reſtore all Corporations to the condition they were in before the *Quo Warranto's* and Surrenders. We have ill Miniſters, and they are concerned that the ſame thing may be done again. Men have done all they can to annihilate their Corporations, and we muſt

not annihilate, but reſtore theſe men. If there be any in Corporations who are ſorry for what they have done, they will take this for a very merciful Proviſo, that they may do no more miſchief to Corporations and to the King; therefore retain the Proviſo.

Mr *Ettrick.*] This Proviſo is a new Law tacked to the Bill. This Bill is a ſubſtantive Bill, and will ſtand without this Clauſe. I think, this Clauſe draws in the good and the bad together. What could any man adviſe in ſuch a caſe, when *Weſtminſter-Hall* had voided the Charter of the City of *London?* And, therefore, a great man, for the benefit of his Country, adviſed Surrenders. As to the matter of prudence, if all have been guilty, I would not mingle the nocent and innocent together.

Mr *Finch.*] I conceive, you are to conſider, whether, firſt, you can, and next, whether you ought to receive this Proviſo. It is ſaid, "It came by Report from the Committee upon the Precedent ſpoken of;" but upon the Journal it appears, that the Proviſo was rejected, and the Bill paſſed. The Committee ſent it back, and could do nothing, and the Parliament leave it out, and paſs the Bill. It is not what the Counſel at the Bar agree, but what the Parliament think fit, not becauſe they agreed it, and no Council at the Bar can touch upon the power of this Houſe. It is natural to make a ſlight Amendment at the Table. I will not ſay any thing to the method of bringing in this Proviſo; the Houſe did receive this, and voted it to ſtand part of the Bill. I could wiſh the Houſe had been fuller then, but the Houſe may reject it now, and I hope they will. I doubt it is not capable of Amendment. It leaves men under the terror of the 500 *l.* penalty, if they do not incapacitate themſelves. It was a fault, but it was general. It is ſaid, in the Preamble of the Bill, "The deſign was to pack Parliaments," and it is ſaid, "This Clauſe is to incapacitate perſons that they ſhould not be guilty of the like again." Moſt Gentlemen are ſenſible that the multitude of Surrenders were after the *Quo Warranto's*; "upon this," ſays the Bill, "there was a deſign to pack Parliaments." It was not this that put them upon taking away the Penal Laws and the Teſt; it required another regulation. It was after all the regulations, that theſe men

ſtood

ſtood in the gap. It puts Corporations as they were in 1675. See if this Clauſe ſtands part of the Bill. If theſe men be put out of the Bill, you put out the men of eſtates, and the ancient Corporations are put into the hands of men of little or no fortune, and ſome call them the *Mobile*. There is a Clauſe in the Bill that declares all Surrenders void; where is the danger of theſe men doing the ſame thing again? The former are in their offices and employment again. Leave this Clauſe out, and you put in the rich men of the Corporations, and if this ſtands part of the Bill, you put thoſe in of no eſtates, and that have given no teſtimony of their affections to the Government.

Sir *Robert Howard.*] Inſtead of puniſhing men that have done ill, we are here making eulogiums on them. I am not for the Church of *England* with that famous doctrine ſome maintain. In Queen *Elizabeth*'s time, when ſhe protected thoſe in arms in *Holland* for their religion, the Church of *England* contributed their opinion as well as their money, and thanked the Queen when ſhe acted according to the ſteps and method of Popery. Then the divine right of paſſive obedience without limitation—If ever ſo many tyrants were complicated in a King, he muſt be obeyed—It was then they began with Corporations; I ſay, theſe were given out for Doctrines of the Church of *England*, and delivered over to the Civil Execution. This was ſetting up that falſe Doctrine of the Church of *England*.

Sir *Francis Winnington.*] To the Orders of the Houſe. This is foreign to the Debate.

Sir *Robert Howard.*] I arraign thoſe that arraign the Church of *England* of ſuch Doctrines; theſe men prepared Corporations to deliver up their Charters. The falſe repreſentations of the Church of *England*'s Doctrine, made way for thoſe misfortunes that followed. This was the firſt cauſe; whatever they did to ſacrifice lives, and for the times, was ſanctified by this Doctrine of Non-reſiſtance. The Queſtion is now, Whether you will do any thing to theſe people, or no? What think you the Nation will ſay to all this? In the beginning of the Bill ſuch a thunder, and ſo hard characters put upon men, and to cloſe the Bill with nothing! And now to fix not only an obligation,

but a character, that they are all fit for theſe employments! I have abhorred what was done in the late times, but rather than no mark of incapacity ſhall be put upon theſe men, I would part with the whole Bill.

Sir *Thomas Littleton.*] I would have this incapacity extend to none but ſuch as forcibly delivered up the Charters, without conſent of the majority.

Sir *Henry Capel.*] It is ſaid, "That ſomething of Fanaticiſm is in this Bill, by taking away of that Clauſe of the unlawfulneſs of taking up arms, or reſiſtance, *&c.*" I ſaid then, "If Marſhal *Turenne* ſhould come out of *France* to invade us, ſhould we not reſiſt him?" Why did they not do their duty before the Prince of *Orange* came over? Did theſe Gentlemen ever think to find Juſtices of Peace, and Judges, Papiſts? *Lewis* XI had liberty to raiſe Money till he called a Parliament, and he never called one, and Money has been arbitrarily raiſed without Parliament in *France* ever ſince. You ſhould have had Parliaments, your bellies full, as *Florence* and *Rome* now have, the one to ſet the rates on cheſnuts, and the other to regulate ſick people.

Mr *Coningſby.*] Surrenderers were the ſcaffolds, and Regulators were the builders; will you leave them out?

The Proviſo was rejected, and the Bill paſſed.

[*January* 11, 13, 14, and 15, Omitted.]

Thurſday, January 16.

On a Motion for a Committee of the whole Houſe on the Bill of Indemnity.

Mr *Sacheverell.*] I am always of the ſame opinion, that this Bill is neceſſary, but I would have it ſet a day, that Gentlemen may the better prepare their thoughts.

Mr *Hawes*] When men have overturned the Government, it is no wonder they preſs an Indemnity. If we are too haſty in it, the matter will not be acceptable to the People.

Col. *Auſten.*] If the preſent Reign had begun with examples of juſtice—But ſince the King has no inclination to ſuch examples upon great offenders, it is not to be feared that the delay of that Bill will put the people in apprehenſion—

prehenſion—Let the Pains and Penalties go on upon an equal foot.

Sir *William Pulteney.*] This cannot go on an equal foot with Pains and Penalties. This has more exceptions than ever any Bill of Indemnity had. It is almoſt the tranſcript of that of 1673, to ſerve turns at Court. I would go on now upon it.

Mr *Hampden.*] If *Pulteney* will go into the Bill immediately, his concluſion contradicts his premiſes, and putting Indemnity, and Pains and Penalties into one Act, what will it then be? It is ſaid, "There are bad men in this Reign;" I believe it, very bad. Suppoſe it be ſaid abroad, when you have pardoned all except ſuch perſons, if Pains and Penalties never paſs they are pardoned. Let us go to work like men with their underſtandings about them, which is eaſily done; for if you think fit to lay Pains and Penalties on notorious offenders, when you come to Indemnity you pardon all but ſuch and ſuch; ſo the Pains and Penalties are as natural, and more than the Indemnity firſt; the next beſt is to put both into one Bill, and both committed to the ſame Committee, and the Committee to have order to join them.

Sir *Thomas Clarges.*] I think, *Hampden* was in Parliament in 1660. There an Indemnity was granted upon a Revolution. The proceeding then was, you excepted perſons to farther Pains and Penalties, ſome for life, and ſome fined a year's Revenue of their eſtates.

Mr *Foley.*] No longer ago than *Sunday* laſt, the Miniſter in *Friday-ſtreet* left out prayers for the King, and his ſermon was a libel againſt the King and the Government, and a deſign to bring in King *James.* When you have agreed, a Committee will require ſeveral Queſtions, which will take you up till night; therefore I am not for a Committee now.

Sir *Henry Capel.*] If we go ſo faſt on with the Indemnity, and leave the Pains and Penalties aſleep, it will go ſlowly on. I am the more ſurprized that the Indemnity is ſo preſſed, when it was ſaid the other day, the Bill of Pains and Penalties was forgot, and the Indemnity carried on. You may incorporate them into the ſame Bill, and, I hope,

hope, we ſhall be unanimous. I am ſorry we ſhould be divided.

Lord *Falkland.*] It is abſolutely neceſſary to expreſs whom you will except, before you inflict Pains and Penalties. If you deſign ſuch a Bill, to eaſe the minds of the ſubjects, the ſooner you do it the ſooner you will eaſe them. If any thing makes people againſt the Government, it is the uncertainty of paſſing this Bill.

Sir *Chriſtopher Muſgrave.*] An honourable perſon was pleaſed to put us in mind "That we forget Pains and Penalties;" I think not, we read it yeſterday. A Gentleman ſaid, "The Miniſter in *Friday-ſtreet* left out prayers for the King;" and I am as confident the Magiſtrates of the City will take care to puniſh him. You are told, "You muſt paſs an Act of Pains and Penalties;" but, if ſo, I know not whether we ſhall have an Act, or no, and we ſhall have work enough to paſs them ſingly—Your Indemnity to be nominated ſingly. But, I think, for ſaving your time, that you nominate them in the Indemnity. But it is ſaid, "Why in ſuch haſte?"—But I have been here two months, and the Bill was read but yeſterday. I move, That it may go to a Committee now.

Sir *Thomas Littleton.*] Suppoſe this Act paſs, and the other, and you name not the perſons, they ſtand as ſcarecrows in the Bill, and are let alone. If that be the opinion, why ſuch a conteſt for priority? But will they give us the reading of the other Bill, at the ſame time?

Mr *Hampden.*] I have heard a hundred times (I may ſay) a certain for an uncertain time. You have declared, "That if the Speaker declares it, they muſt go out." To the Order of the Day; read the Bill, and thoſe againſt it muſt go out.

[The Queſtion for reſolving into a Grand Committee on the Bill of Indemnity, paſſed in the Negative, 193 to 156; and the Bill for inflicting Pains and Penalties was read a ſecond time, and ordered to be committed.]

[*January* 17, Omitted.]

Saturday, January 18.

Debate on Sir *Robert Sawyer*'s Proſecution of Sir *Thomas Armſtrong*, being then Attorney-General.

Mr

Mr *Hawles.*] A Writ of Error is a Writ of Right; and I am ſorry it was left out in the Bill of Rights. How ſcandalous is it, when a man guilty of the murder of Sir *Thomas Armſtrong* ſhould be protected within theſe walls! Warrants were directed out of this Houſe for attaching Lord *Stafford*, and he complained of it in the Lords Houſe as a Breach of Privilege, but the Lords would not hinder the proceeding. They ſaid, "They had no Privilege in thoſe Caſes." If you ſay, "You cannot name a Member without Order at a Committee," you muſt recommit this Bill for repeal of Sir *Thomas Armſtrong*'s Attainder, to do right: I do not underſtand it to be ſatisfaction for the eſtate of this Perſon, but for the blood of this Perſon. I would have the Money for thoſe that ſuffered, and thoſe that ſuffered not. Why is it enquired, what this Gentleman is worth? An Appeal may be brought by an infant, and he had 1500 *l.* for the blood of his anceſtor. In the caſe of *Sacheverell* and *Blackwell*, a Writ of Error was brought, and there was damage given for the blood of the Anceſtor. They who deſtroy the King's ſubjects, act againſt the King. He that preſerves moſt of his ſubjects does him moſt ſervice. In his natural capacity, he may deſtroy whom he pleaſes—In his politic capacity, thoſe who are moſt guilty only. *Armſtrong* offered a Plea, and it was not allowed, and you have voted it "Wilful Murder." When the thing is ſo plain, (though I would not puniſh for mere error) and you have voted it "Murder," ſure it muſt be in ſomebody. *Armſtrong* did not murder himſelf, and afterwards quarter himſelf; indeed Sir *Edmundbury Godfrey* hanged himſelf, and afterwards ſtabbed himſelf! Were the Judges and Proſecutors guilty? They were all guilty. I am not for rigour, though blood cries for blood. Let them that require ſatisfaction have the Money, and let all be reported to you.

Sir *Robert Sawyer.*] Let all perſons guilty ſuffer; but the Queſtion is, "Whether I have been dealt withal by the Committee as a Member?" When the Bill was committed, a Charge was brought againſt me, "That I had proceeded againſt Sir *Thomas Armſtrong* arbitrarily and illegally." It was ſaid, "It was ever the duty of an Attorney-General to grant a Writ of Error;" but it was never done

done in any book of Law. Application muſt be made to the King by Petition, and he gives a Warrant to the Attorney-General to conſent to it. The Statute that gives the Writ of Error runs thus, "Except in caſes where the King is a Party." *Ed.* III. The parties petitioned for Error *tam quam*. It is a received opinion, that a Writ of Error lies not in thoſe caſes. Before the Statute of *Hen.* VIII, there was no Writ of Error but in the *King's-Bench*, and all was by Petition to the King. I did forbear to attend the Committee becauſe I oppoſed the Bill; they have waved that Clauſe, but I am not exempted; you may hear it at the Bar, and I am not exempted from it. It is the duty of every Attorney-General upon an Outlawry brought, and of courſe it is his duty to pray judgment of the Court; which aſks what he has to ſay. If he produces a Plea, then the Attorney replies. But that is an extraordinary thing to allege what *Hawles* ſays, *&c.* I deſire there may be the ſtricteſt examination of my actions. No man can ſerve the Crown, if he is an honeſt man, if he muſt be blamed for all the Miſcarriages of the Judges.

Mr *Hawles.*] Pray let it go back to the Committee, with the directions of the Houſe to find theſe men out, and ſpare me not if I be one. Upon the Plea, the Outlawry ought to be laid aſide. It is the duty of the Attorney to inform the Court, if running into an Error.

Sir *William Williams.*] I ſhall ſpeak to the Recommitment. If you recommit this upon Breach of Privilege, for naming *Sawyer* at the Committee, without acquainting the Houſe, we go in a wheel; you only ſend it back to the Committee to do nothing upon it. If it be your opinion, that it is a Breach of Privilege upon *Sawyer*, he may be heard at the Bar. It is fit that you put yourſelves into ſome courſe. You cannot regularly ſend your Member to a Committee without Inſtructions. Pray let us have plain dealing; will you recommit the Bill with Inſtructions? Elſe your Member muſt be heard at the Bar. You are told, "There can be no Writ of Error in criminal caſes where the King is a Party, but by a Warrant from the King;" but I take the Law to be quite otherwiſe. He goes farther, and tells you, "When the Party brought either Error, or a Plea, he ought to have a Warrant from the

the King, *&c.*" I drew the Plea, though I was told, "It was a ſnare for me," and your Vote calls it, "Murder, *&c.*" ſo you have juſtified that matter. When the Plea was tendered, did any body move, that the Plea ſhould not be received? This is the anſwer of the Attorney-General; all is put upon the dead (Lord Chief-Juſtice *Jeffreys*) and the dead muſt anſwer for the dead, and *the dead bury the dead.* If they had executed the part of an Executioner, they had done all—I was aſleep in the Court. I heard not of it. Pray let us have it heard at the Bar tomorrow.

Sir *Thomas Clarges.*] I would recommit the Bill upon the point of ſatisfaction and reparation. You are told, "A great part of the Money (*Armſtrong*'s) remains to his heirs, and ſettled before the Attainder;" and if any ſatisfaction is to be paid by any of your Members, recommit it upon that point.

Sir *Robert Rich.*] Before you put any Queſtion, I move, that the Order by which your Committee ſat, may be read.

It was read.

Mr *Smith.*] I move, to recommit the Bill upon that point of reparation. I am ſatisfied that *Armſtrong* ſuffered illegally, and I am willing there ſhould be conſideration had of his family, which might have been proper in the Indemnity. I think it not reaſon that there ſhould be reparation out of *Sawyer*'s eſtate, nor is he concerned.

Sir *John Lowther.*] As for reparation, *&c.* it will be found a thing not precedented, and as for the Writ of Error, we are not clear in it, therefore I would have it committed again. Though ſeveral Precedents have been quoted by *Hawles*, yet no Precedents of Parliament, but all of *Weſtminſter-Hall*; if thoſe ſhould be Precedents, they may miſguide *Weſtminſter-Hall* to do the ſame thing again. I would willingly have Precedents of Bills of Repeal of Attainder ſigned by the King, and ſent down from the Lords. Lord *Ruſſel*'s was ſo. To take an eſtate, deſcended to the right heirs, to be forfeited, I never heard of that before. Should this make a difference with the Lords, the Bill is not worth that. When the thing is a novelty—Let it have its proper paſſage from the Lords.

Sir

Sir *Chriſtopher Muſgrave.*] I know not what it means to recommit the Bill upon the Debate. The Committee had brought in perſons not in the Order. Next, it gave reparation, where it did not appear the eſtate was loſt. It is ſaid, "The eſtate in *Ireland* was loſt;" but it appeared ſtill to be in his Executors and heirs; and Sir *Thomas Armſtrong*'s bonds, if they be good bonds, they may have them. If there is any thing ariſes at the Committee in relation to your Member, they are to make a ſpecial Report of it, and then he has opportunity to make his defence. I would recommit the Report upon that point of reparation, and leave out thoſe names they had no Order for. The Order tells you of the Judges, and the two Proſecutors, and no more.

Sir *John Guiſe.*] It ſurprizes me that the Houſe is not of the ſame opinion they were formerly of. You may have a Member in the caſe; and, it ſeems, to-day a Member is not to be named, but if a Member comes in the ſame circumſtances as others, did I think I ſat in the Houſe with a murderer, I would not ſit till I had thrown him out. It is ſaid, "*Armſtrong* was denied a Writ of Error;" I hope that that is the right of the ſubject to have that Writ, of right, without Petition. It has been told you, "He has 300 *l. per ann.* in *Ireland*, and ſeveral debts in *England*;" and it is ſaid, "They are in the hands of the Executors of *Armſtrong*;" but I ſuppoſe they are worſe, ſince Lord *Kingſton* is in *Ireland.* I would recommit it upon the Debate of the Houſe. You ought to do juſtice to yourſelves, that a man, guilty of murder, ſhould not ſit with you: Let it be heard at the Bar.

Mr *Hampden.*] I ſaw a learned Plea drawn in that buſineſs; but pray let not reflections go amongſt us upon the profeſſion of the Law. Great perſons are deſcended from the Law, and it is a very honourable profeſſion. Our Common Law is founded upon reaſon. What Law may do in *meum et tuum*, and conſcience is very much enlarged—Formerly, at leaſt, what a Lawyer ſaid, muſt be probable for his Client, but let it be how it will in this. But will you allow a Lawyer in point of argument betwixt the Crown and the Subject? Is he not plainly to ſay what the Law is in that caſe? It is true, in a doubtful caſe, the

the Counſel ought not to do it; but, as to reſtitution, ſuppoſe a man killed a very poor man, do you think he owes nothing to the wife and children? nothing to reparation? If not, I have miſtaken all the rules of juſtice. I ſay this, becauſe I ſee thoſe things have not their true value; they are under-valued; therefore I would lay it aſide.

Sir *William Williams.*] I am for enlarging your Inſtructions to the Committee. I am for naming perſons, but whatever perſons come by deſcription, within your Order, I would have examined, beſides the three Judges; for I believe more were guilty than *Burton* and *Graham.* What was their crime? They went only from *Whitehall* to *Newgate*, and ſo to *Weſtminſter*, like Porters of the buſineſs; theſe are Sollicitors, theſe are Attorneys, the Proſecutors are the moſt guilty. Let the Committee have general Inſtructions. Your Committee will make no reflections, but according to the right and cuſtom of Parliement, and the Laws of *England.* No cauſe can be juſt on both ſides. As the Law ſtands, the priſoner can have no Counſel, and when he has none, he that does proſecute without Law againſt him, is a betrayer of the Law.

Lord *Falkland.*] I crave leave to add one caſe to *Williams*'s, that of the proſecution of the Biſhops, wherein our Laws and Liberties were concerned, which he proſecuted.

Sir *William Williams.*] Where there was Counſel on both ſides, I might be Counſel.

Sir *Robert Cotton.*] What concerns your Member, you ought to put to the Queſtion, Whether the Committee ſhall have Inſtructions to enquire into that; and now you leave them to general enquiry!—(*It was ſaid privately*, "That all this fencing was not to ſave *Sawyer*, but *Finch.*")

Col. *Birch.*] I am never more afraid of Miſcarriages than when it is our own concern. I know not what recommitment you mean, unleſs you tumble it to a Committee to do nothing again. You named three or four, and your Committee named a Member, and you ſay, "That is a fault." This Proſecution of *Armſtrong* was more criminal in the Sollicitor and Attorney-General than in *Burton* and *Graham* to fetch and carry. But here is murder in the caſe, and you are going out of the way, unleſs you give leave, nay order, to read it at the Bar. *Solomon*

Solomon ſays, "*There is nothing new under the Sun.*" This may come again before you, for ought I know, therefore ſettle it now.

Sir *Chriſtopher Muſgrave.*] You have already committed the Bill, and upon the Report your Member is concerned; then it is your proper time to order it to be heard at the Bar.

Mr *Boſcawen.*] The Committee ought to have made a ſpecial Report. As to your Member, you cannot do yourſelves, nor your Member, right, unleſs you give a day at the Bar to hear it: And it is as neceſſary that the Houſe juſtify themſelves in their Vote as your Member himſelf.

Sir *John Trevor.*] This Gentleman (*Armſtrong*) was my particular friend, and I am willing to do any thing for the ſatisfaction of his family. What will you do with it at the Committee? Specially examine it? If your Member be injured at the Committee, then is your proper time to hear him at the Bar; as it is juſt that the family ſhould have reparation for their loſs, particularly made out. It is true, you cannot make particular ſatisfaction for blood, but for his eſtate, if you recommit to enquire ſpecially, and let them make a ſpecial Report, then your Member may juſtify himſelf.

Sir *Henry Goodrick.*] I ſpeak to your Order; and what becomes of your Committee's Report? I ſee, you cannot appoint a Charge againſt your Member, without a Report, and the Committee has given you none; therefore, I move, that, if any Charge ariſes at the Committee, they may make a ſpecial Report.

Mr *Hampden.*] I wonder at the Debate of this Queſtion. When your Member deſires to be heard, I am ignorant why it ſhould be denied. I muſt expect ſomething ſingular, either that *Armſtrong* was not murdered, or ſomething to the miniſterial matter, as he was a Lawyer. Privately to give opinion that Charters could not be delivered up without perjury, and yet to plead and uſe all the eloquence againſt the thing!—If the profeſſion of the Law gives a man authority to murder a man, at this rate it is the intereſt of all men to riſe and exterminate that profeſſion. I would know what *Sawyer* can ſay.

Col.

Col. *Tipping.*] The Committee had no power to ſend for *Burton* and *Graham*, who are in cuſtody of this Houſe; therefore I deſire they may have power to ſend for them.

Mr *Dolben.*] I find there is great ſtreſs laid upon *Sawyer*'s being heard at the Bar; but I cannot ſee how it can be, before the Committee have reported ſpecial matter againſt him, without acccuſation of himſelf. It is plain, that *Sawyer* did not proſecute the whole Indictment. He was indicted in *Middleſex*. If he that demanded Execution be to be proſecuted, he that did the execution may be proſecuted too.

Mr *Hampden.*] Whether you will go to a Committee for examination, and whether you will hear it at the Bar, how your Member is concerned, 'tis a Queſtion without a Queſtion. Nobody will be willing to be judged at a Committee of ſeven or eight perſons in a chamber to examine a Member; or, in general, when a Member has been concerned, it was never done, but if that ariſe, let it be reported ſpecially. It is ſtrange a Committee ſhould examine a Member whether Guilty, or Not guilty. If you command the Committee, before the Bill comes to perfection, you may hear your Member anſwer in his place, and appoint a day for it. You yourſelves cannot impower a Committee to examine a Member; it is the Privilege of the Houſe, and the Privilege of every Perſon in it. If a Member falls in collaterally, if ever they hear a Member named, they ſtand up and go no farther, but report it to the Houſe. If they have done irregularly, will you do ſo too? Let it be recommitted, and your Member may anſwer in his place.

Monday, January 20.

Mr *Chriſtie* reports the Bill recommitted for annulling Sir *Thomas Armſtrong*'s Attainder, with ſome Amendments; [and ſpecially reports the above Information againſt Sir *Robert Sawyer.*]

Sir *Thomas Clarges.*] In puniſhing perſons, you may do a Precedent of dangerous conſequence for the future; therefore I would have *Burton* and *Graham* heard.

Sir *John Guiſe.*] You have referred this to a private Committee, and now they bring the Report to the Houſe; is there any objection that the Committee have not done

their duty? You had it once before you, and referred it to a Committee.

Sir *Thomas Littleton.*] Theſe perſons, *Barton* and *Graham*, never made any application to the Houſe to be heard, but the Committee, that had power to ſend for Perſons, Papers, and Records, never ſent for theſe Perſons.

Sir *William Williams.*] All cannot be heard; ſome are dead, and they cannot be heard, and by that conſequence you cannot charge their Eſtates—The Judges are charged with giving a corrupt and illegal judgment; if theſe Perſons did it corruptly and maliciouſly, and theſe Perſons are in the Bill, it came naturally before the Committee. Such Perſons as could be heard, were heard. I would do juſtice juſtly. I would hear them at the Bar; but with what juſtice can you then hear *Jeffreys*'s and *Alibone*'s Executors afterwards?

Col. *Auſten.*] As to the juſtneſs of it, they were ſummoned by the Committee, and will not appear, and now they would be heard in the Houſe. If, when you committed this Bill, and the Committee named Perſons, you thought it not in their power, and theſe People would not appear there, I hope you will not receive their Petition in the Houſe. I hope you will begin with the ſpecial Matter reported.

Sir *Chriſtopher Muſgrave.*] A Petition is offered, and you do not right unleſs you receive it. *Armſtrong* was condemned without hearing, and will you do the ſame thing again? If nothing will appear on your Books which was ſaid in their defence, it is a dangerous Precedent. *Graham* and *Burton* are in your Cuſtody; let us not go out of the common way of juſtice, but hear them.

Mr *Hampden.*] Some Perſons were proſecutors of *Armſtrong*. I have obſerved, that all the arts of delay are uſed, and it is no ſtrange thing for people to avoid puniſhment, and to take all legal advantages; but the Queſtion is, What you will do now in adminiſtration of your juſtice? One could not come, but *Holloway* and *Wythens* might, and now you are moved to hear them by Counſel. I am of opinion they ſhould be heard *ore tenus*; there is nothing to be heard upon the matter of fact. I think you will not hear them by Counſel; they ought to anſwer for themſelves.

themſelves. Here is nothing in the Caſe, but "Guilty, or Not guilty." I would have it brought to iſſue. If you will hear it, I would have no denial, for your juſtice will be as well in adminiſtration as execution. But if they come to be heard without Counſel, every man anſwers for himſelf. You have declared already how the Law ſtands; let your Summons be ſhort and peremptory, to appear at their peril.

Mr *Garroway*.] There is no need of Counſel to trouble you. If the Judges, *&c.* appear, what they can ſay will do them little good; they will be in your Act of Indemnity; therefore hear them to morrow-morning, before you go on the Bill of Indemnity.

Mr *Smith*.] I agree to what is propoſed, but you are told, "The dead cannot be heard for themſelves." They have left Executors, and order them to appear then.

Mr *Hampden*.] It is an odd thing to think of Pains and Penalties (as is moved) before you have found Perſons. If that be done, do you not look upon them as criminals? Suppoſe you ſay, "*Burton* and *Graham*, *&c.* ſhall never act as Attorneys in *Weſtminſter-Hall*, nor in the Eccleſiaſtical Courts:" Perhaps they are not guilty; therefore I think the Indemnity needs not ſtay for this. You need ſay no more, than that thoſe who acted in *Armſtrong*'s Proſecution ſhall make his family reparation, as well as to public juſtice.

Sir *William Whitlock*.] I do as much deteſt this murder of Sir *Thomas Armſtrong*, as any man here, or in *England*; but I would give a reaſonable time for hearing a man. Hearing a man ſuddenly is not hearing him. Pray let it be *Saturday*.

Sir *Robert Rich*.] I am bound to believe, that every Gentleman means cordially, and I ſhall be one of thoſe to wipe blood off from this Houſe. I have no malice, nor any relation concerned. I believe, thoſe men are ſatisfied that they cannot juſtify themſelves, but will be trifling with you. If you will do juſtice to the fatherleſs, tell them ſo; next to that, tell them that their cauſe is not good. But what conſequence is there of hearing them all in a day? I never knew men without a contrivance; they may have the gout, or be ſick. I watched your Committee, and,

according to Order, your Member, *Sawyer*, was named. Therefore pray go upon your Member preſent.

Sir *William Williams*] You have ordered the Records of *Armſtrong*'s Proſecution to be brought; pray let the Officer be called in (Sir *Samuel Aſtrey*,) to attend you, both with the Records of the Outlawry, and the Awards of Execution. It may ſo fall out, that matter of Law may ariſe; therefore let it be indefinitely, not forbidding Counſel.

Mr *Smith*.] The Law ſays, "A man ſhall not be executed in twelve months, *&c.*" and *Armſtrong* appeared within that time; will you hear Counſel as to that?

[*Ordered*, That Sir *Richard Holloway*, Sir *Francis Wythens*, the Executors of the late Lord *Jeffreys*, the Executors of the late Mr Juſtice *Walcott*, Mr *Richard Graham*, and Mr *Philip Burton*, do attend this Houſe on *Saturday* morning next; to anſwer to ſuch Matters as are charged upon them, touching the Proceedings againſt Sir *Thomas Armſtrong*.

Ordered, That Sir *Samuel Aſtrey* do, at the ſame time, attend the Houſe with the Records of the Proceedings, both upon the Outlawry, and the awarding Execution againſt Sir *Thomas Armſtrong*.]

Then Mrs *Matthews*, (Sir *Thomas Armſtrong*'s Daughter,) was called in, and aſked, "What ſhe knew of the Proſecution againſt her Father; [and, Who were the Proſecutors?"]

Mrs *Matthews*.] The Judges were *Jeffreys*, *Wythens*, *Holloway*, and *Walcott*; *Sawyer*, *Burton*, and *Graham*, Proſecutors. I was with *Sawyer* for a Writ of Error: He ſaid, "Your Father muſt die, he muſt die; he is an ill man." My Mother was ready to pay him all his due fees, but he ſaid, "He muſt die, he muſt die." When my Father was brought to the Bar, the Chief-Juſtice aſked *Sawyer* "What he had to ſay?" *Sawyer* prayed an Award of Execution; which was done: My Father deſired that the Statute of Outlawries might be read. He ſaid, "He thought it was plain that he was come in within a year, *&c.*" Said *Sawyer*, "Sir *Thomas Armſtrong* will not find any thing in the Statute to his purpoſe: Poſſibly he will ſay, he ſurrendered himſelf to your Lordſhip, but, Sir *Thomas*, you ſhould have ſurrendered yourſelf before you went out of *England*;" and he alleged *Holloway*'s caſe. Said the Chief-Juſtice, "We have enough againſt him." Said *Sawyer*, "The King did indulge in *Holloway*'s Caſe, but *Armſtrong* was active in the fire at *New-market*, and he has received dangerous Letters," whereas they were no more than a recommendation to the Duke of *Brandenbourg*.

Sir *Robert Sawyer*.] Be pleaſed to aſk her, if, when ſhe came

came to me for a Writ of Error, I told her, "It was not in my power; ſhe muſt petition the King?" And whether I demanded Execution till the Court had declared their opinion? And whether, after he ſaid "He had ſurrendered himſelf," I demanded Execution?

Mrs *Matthews.*] I believe, *Sawyer* ſaid, "It was not in his power to grant a Writ of Error," and did ſay, "You muſt apply to the King, or Lord-Keeper, by Petition."—The King and the Duke ſaid, "It was an impudent Petition."—I cannot ſay, *Sawyer* demanded Execution before the Judges had declared themſelves. [*She withdrew.*]

Sir *Robert Rich.*] You will hear thoſe in the Houſe, ſure, as long as thoſe out of the Houſe. Before you debate, your Member muſt anſwer, and then withdraw. If by Law, the Member can juſtify himſelf; if the contrary, he may ſay ſomething in mitigation. If the Warrant of Execution was ſigned by that demand, let him tell you whether it was by himſelf, or any body elſe.—

Sir *Robert Sawyer.*] I ſhall only obſerve, that the Perſon who informs you of this, is ſingle, and a Perſon intereſted, when they might have produced multitudes of Perſons; and that will appear. I did no more than my duty. She ſaid, "I told her Sir *Thomas Armſtrong* muſt die, and that he was an ill man." I call God to witneſs, I ſaid it not, nor uſed ſuch language. I ſaid, "I had no power to give a Writ of Error; it muſt be obtained by Petition to the King." As for my management at the Arraignment, it was according to my Oath and Duty to attend the Court. Every tittle of what paſſed was printed in three days, and went all over *England.* It was not only lawful, but my duty, to put *Armſtrong* upon Tryal, to hear what he could ſay to the Record of the Outlawry, and I prayed Judgment: If he had nothing to ſay, it was my duty to pray Execution; I went no farther, not a tittle, in this buſineſs. *Armſtrong* quoted ſuch a Statute, and it was read in Court. "Has he rendered himſelf to the Chief-Juſtice?" "No." *Armſtrong* ſaid, "I now render myſelf to your Lordſhip." This is the fact. I never argued to incline the Court one way or another. The King indulged *Holloway*, but he had that againſt *Armſtrong* that he could not allow it. It was my duty to demand Judg-

ment of the Outlawry. The Clerk of the Crown will ſatisfy you fully.—*He withdrew.*

Sir *Robert Clayton.*] I obſerve, *Sawyer*, before he went out, excuſed himſelf by the forms of the Court, "That he aſked for Execution but once;" and that, after the Statute was read, and *Armſtrong* ſaid, "He ſurrendered himſelf," he ſat down and ſaid no more. I take it not for his crime to do his duty, but he ought to have informed the King what was Law; for aſking the thing contrary to Law, the crime was charged; he had direction from the King—I think he comes well off to make ſatisfaction to theſe poor creatures, his daughters.

Mr *Smith.*] *Sawyer* tells the King, "*Armſtrong* ought to have a Tryal;" but does it appear that he offered any thing before the Court had declared? Unleſs there be farther matter than I ſee yet, I find him not criminal.

Mr *Hawles.*] I did perſuade this Gentleman *(Sawyer)* to give theſe Ladies ſome Money, and prevent the matter from coming here.

Sir *Henry Goodrick.*] I hope *Sawyer*, your Member, may come off; but for a Member to make bargains in point of blood, is a ſtrange thing, and ought to be taken notice of.

Sir *John Guiſe.*] We are all about giving them ſomething for the blood of their Father, and it is no ſtrange thing.

Mr *Hawles.*] I formerly cited the caſe of *Blackwell* and *Sacheverell.* Some ſay, "I encouraged this matter;" and I have had hard words given me for it. As for *Burton* and *Graham*, they only brought *Armſtrong* up, *&c.* but for an Attorney-General, when he has that office, how comes it to paſs that he muſt leave all rules of common honeſty?—I wiſh this Gentleman had been as nice in ſpilling blood, as we are in puniſhing it. This was error in fact, and when ſo, the Attorney-General ought to conſent to reverſing the Outlawry, or to the Demurrer. The Statute ſays that to him, "If he comes in in a year and a day."—The Attorney-General ought to conſider whether the fact was true, or not; if not, it ought to be reverſed. If you believe Mrs *Matthews*, *Armſtrong* was condemned before he came into Court; he ſaid, "He is an ill man, and muſt die."

Suppoſe

Suppoſe the King tells the Attorney-General, "That is an ill man, let him be hanged, right or wrong;" he is bound to purſue the intereſt of his Client, and it was for the intereſt of the King to preſerve his Subjects. He ought to have retracted, and told the Court, there was Error, and he might have had his Writ. If it goes upon the juſtice of the Houſe, it goes hard with *Sawyer*, not only as to ſatisfaction, but ſomething farther.

Sir *Robert Cotton.*] As *Sawyer* did his duty to the King, ſo he did to the priſoner. He aſked the Court, "Whether he did ſurrender himſelf?" which put both the Court and the Priſoner in mind of it. He preſſed not Execution —If that was his duty, he was not to blame for it. He put the Court in mind that there was ſomething in this Surrender. What he ſaid and what he did in Court is only before you; and he did his duty to God, the King, and the Priſoner.

Sir *John Guiſe.*] *Sawyer* has confeſſed a worſe thing than he has been charged with. He told *Armſtrong*, "He had more Evidence againſt him than againſt *Holloway*." If *Cotton* takes the Evidence right from the Bar, it is of another ſort than he mentions it. *Sawyer* is not accuſed for proſecuting as Attorney-General, but he might have adviſed the contrary—Are not Priſoners condemned upon the whole, and not upon the half? The moſt abominable part of an Attorney-General he has acted. It is a ſmall recompence to the family to have a fine for the loſs of a man that might have been conſiderable in the War. Pray let him be brought into the Bill of Indemnity.

Sir *Joſeph Tredenham.*] The demand of Judgment was not *Sawyer*'s crime. He oppoſed not the reading of the Statute. I would put no hardſhips upon perſons who ſerve you in the Courts of Juſtice.

Mr *Foley.*] If your Member was not a Proſecutor, I wonder how *Burton* and *Graham* came to be ſo. Did he demand Execution before the twelve months were expired? That is his crime, and you are to judge *Sawyer* upon that. *Armſtrong* deſired the Statute might be read; your Member ſaid, "That will do you no good," for *Sawyer* preſſed Execution; and that is his crime; and things will never be well, till ſome of that profeſſion be made examples.

Mr *Hampden*, jun.] I wonder it ſhould be inſiſted upon "That demanding Judgment ſhould be no Crime." I would demand, whether the *Jews* were criminal for demanding Judgment againſt our Saviour? When King *Charles* I was tried, Sollicitor-General *Cooke* demanded Judgment againſt him—(I make no compariſon.) But I aſk, "Whether nobody can be murdered but a King?" We have a new ſort of Monſters in the world, haranguing a man to death; theſe I call Blood-hounds, that make ſpeeches as long as my ſtick. *Sawyer* is very criminal, and guilty of this murder, in my opinion.

Mr *Garroway*.] I ſpeak to diſcharge my conſcience: I will not have the blood of this man at my door. This Gentleman fled, and was outlawed, and abroad was trepanned by one *Everis*, who decoyed and brought him off. They had deſigned his death before he ever came in. There was a year and a day for him to appear, and plead, to reverſe the Outlawry. *Sawyer* demanded Judgment againſt him, and Execution. I believe *Sawyer* not ſo ignorant a man as not to know all this. I believe him guilty of the death of this man; do what you will with him.

Mr *Boſcawen*.] When *Armſtrong* demanded the reading of the Statute, *Sawyer* ſaid, "That will do you no good." Was not that a perverting Judgment? To have an eloquent Attorney-General tell what is Law! Whoever perverts Judgment, I ſhall never excuſe him.

Mr *Smith*.] This Gentleman takes a thing for granted that was not ſo. *Sawyer* ſaid, "The Statute would do *Armſtrong* no good." I ſuppoſe, you will take it for granted, the Gentleman may be miſtaken, and underſtand not Law. Suppoſe I draw a ſword to defend a man, and he be killed, muſt I be hanged for him? If *Sawyer*, after the Statute was read, did demand Judgment, I ſhall pronounce him guilty.

Mr *Boſcawen*.] I appeal to the Long-Robe, whether, on a murder, the wife and children are not good witneſſes againſt a man?

Marqueſs of *Wincheſter*.] As to the miſtake, *Sawyer* ſaid, "He refers himſelf to the Prints." Pray let them be ſeen. *Sawyer* ſaid, "The Statute would do him no good;" and made

made a long Speech after. This Perſon is not fit for the King's mercy.

Sir William Williams *reads all the Paſſages in the Print, after reading the Statute in the Court upon the Tryal.*

Sir *William Whitlock.*] I am againſt all manner of tyrannical proceedings. No man deteſts this murder more than myſelf. When he heard the Statute read, not to be convinced!—Would the Judges have been ſo headſtrong to do it unleſs he had demanded Judgment? I believe Lord *Lovelace* had been deſtroyed if *Sawyer* had not been Attorney-General. You cannot diſtinguiſh this without the Judges, face to face.

Sir *Chriſtopher Muſgrave.*] I would know, whether a printed Tryal be Evidence? If you read it, you will make a judgment. I think it not for the honour of the Houſe to read it. If it be no Evidence, why will you read it? You cannot ground a judgment upon what *Weſtminſter-Hall* will not allow to be Evidence. The Perſon, Mrs *Matthews*, who is Evidence, is to have benefit by it. You may have Perſons of that Court that can give you legal Evidence. It is ſaid, "That *Sawyer* refers himſelf to the Paper;" but the Queſtion is, Whether we can give judgment on it?

Sir *Henry Capel.*] I deſire that *Weſtminſter-Hall* may not be a rule of Evidence for this Houſe. They are an inferior Court; we, the great Inqueſt of the Nation. I will not appeal to the Gentlemen of the Long-Robe; every man here has equally his judgment. I think, *Sawyer* referred himſelf to the Print; if he himſelf appeals to it, read it.

Sir *William Williams*] The Queſtion is, "Whether the woman is in the right, or the Print? It is ſaid by *Trevor*, "He was by, and heard it not." A hundred were by; that paſſes for nothing. The Print is againſt *Sawyer*, the Woman againſt him, and the fact againſt him; therefore put the Queſtion.

Sir *Thomas Littleton.*] I am ſatisfied that every one of theſe Prints is true, for they are like parts in a play; every body pauſes upon his own part, and they ſign it. The main thing that affects your Member is not yet touched. Mrs *Matthews* came with her Father's caſe to *Sawyer*, who

ſaid,

ſaid, "He muſt die." If that be really ſo, and if the Witneſs ſpeak true, it looks like a deſigned thing by his anſwer. The Statute was perverted, and the Court ſo indiſcreet as to ſay, "*Holloway* had the benefit of it, for there was Evidence againſt him." *Armſtrong* was tried in a Cabinet before-hand. The proper Queſtion is, "Whether *Sawyer* ſhall be put into the Indemnity, or not?"

Reſolved, That Sir *Robert Sawyer*'s name be put into the Bill of Indemnity, as one of the Proſecutors of Sir *Thomas Armſtrong*. And the Queſtion being put, That he be expelled the Houſe; it paſſed in the Affirmative, [131 to 71.]

Tueſday, January 21.

On the Bills of Indemnity, &c. Inſtructions to the Committee.

Mr *Sacheverell.*] I move, that there may be particular names, and not deſcriptions, for that will be ſetting them free that are dead, for all the ills they have done, be they dead or alive; and having raiſed their own fortunes, if they can go off ſo in that manner, and leave children ſo great as to be Noblemen, I deſire not ſuch families to be great in *England*. You have given your judgment upon a Member yeſterday, and if there be any more you ſhall think fit to name in this Houſe, firſt either declare that none here ſhall be named, or if there be, that he ſhall withdraw; for elſe it is not equal juſtice—In all Acts of Indemnity there are general Heads, and under them except all that ſhall be excepted. To bind up your Committee, that their ſhall be no general Heads, is to bind up your own hands. But if any thing appear before you have done your Bill, I would not be bound up by any binding rule.

Mr *Ettrick.*] I think you have been well moved to name Perſons. Of thoſe that are offenders againſt the Government you are at liberty to name a hundred, man by man. You ſpent a great deal of time, the laſt Seſſion, when you went upon Heads. There were no ill effects in *Charles* II's time. How many men were there whoſe bloods cried for vengeance? There was a temper of reconciliation and union; now it is otherwiſe; we have a War in *Ireland* and *Scotland*, and are not ſatisfied with one another. There is nothing better than a reconciliation.

Mr

Mr *Dolben.*] I am for an experiment, to try now whether we ſhall have better ſucceſs in naming Perſons. I would name Perſons, but I had rather that things found out Perſons, but thoſe things are ſo far from finding out Perſons, that you have been forced to ſeek for Perſons without doors, Records and Offices, and with much ado you have found out one of ten Perſons concerned. You are deſired now to try another way more likely to effect your end than to name Perſons. Some, like *Cain*, bear their brands about them. You will find enough to ſatisfy the juſtice of the Nation. I think, the honour of the Houſe is concerned—Here has been a mighty Revolution, an Abdication of the Crown, *&c.* and ſtill you find not out the Perſons who were the occaſion of all this. Inſtances of the late malverſations are numerous. If you go the ſame way, you will have no more ſucceſs this Seſſion than you had laſt. The way propoſed will be more ſucceſsful, becauſe more expeditious: I believe it, and move it.

Mr *Peregrine Bertie.*] I move, That Sir *William Williams* may be excepted in the Indemnity.

Sir *Edward Huſſey.*] I ſecond it.

Sir *John Lowther.*] It is well moved, to proceed upon Perſons, and not Crimes; the objection againſt it is material; it may be thought by it to excuſe the dead; the greateſt criminals you have are dead. There may be Perſons found hereafter not yet found. Sure you will ſet Perſons at eaſe at laſt! I hope you will put the Queſtion, and every Gentleman will agree to it.

Mr *Howe.*] There is great expectation from abroad of what we ſhall do in the Indemnity. I hope you will not put revenge beyond your juſtice. If it appears that, in the laſt Reign, there was nothing done illegal, and that men were not driven out of their places that would not comply with Popery, *&c.* and by taking away Charters, to pack Parliaments and Juries to murder Lord *Ruſſel*, and acquit Count *Coningſmark* *; from whence comes the choice of ſuch men, to return Juries and Votes in chuſing Parliament-men, and from whence have proceeded all the Murders and Impriſonments? I know no man in the Houſe

* For procuring Ruffians to murder Mr *Thynne*, in his coach, in *Pall Mall.*

that

that has occaſion of an Indemnity, but I hope not to ſee as formerly that *vitia in Senatum veniunt.*

Sir *Robert Cotton.*] I am for coming to an end, and that you cannot do till you have named Perſons you will except. But by this way of debating crimes at large, you will ſit to little purpoſe to arrive at your end.

Sir *Robert Napier.*] Some do not like the taking away Charters; that came *malum ab aquilone*; nor Regulators—But if you take particular Perſons that carry the mark of *Cain* upon them, name them. There were men that ſailed with every wind; one has been named, *(Williams,)* and I deſire he may withdraw.

Sir *John Guiſe.*] Things are Evidence. You have before you a Motion for *Williams* to withdraw. I wonder that you name one, when there are more as well as he.

Sir *Henry Goodrick.*] If I have a mind to name them, I have courage and heart to do it, but I am not compelled to name them.

Sir *John Guiſe.*] I hear of quieting mens minds, and that this puniſhment will quiet the minds of ſome people. You owe it to juſtice to puniſh great offenders. Here is that High Commiſſion Court; let that enquiry be Inſtructions to the Committee; you will ſee who they are, and there you may ſelect ſuch as are fit to make examples. That of Corporations too, both proſecuting and betraying Charters. The thing has been thrown from one to another; let the things ſpeak themſelves. The Lords have ſent you Evidence; I believe, it is in your hands, it is an Evidence, a Record, and I deſire it may be read.

The Speaker.] By Order of the Lords, their Clerk delivered ſome Papers to your Clerk; there was a Meſſage expected with it, and therefore I acquainted not the Houſe with it.

Sir *Henry Goodrick.*] When Papiſts, nay a *Jeſuit*, ſat in Council, and ſince, by form of Law, they have cut mens throats, I cannot come to a determination till we have purged our own Houſe. Where there is a full proof, and full Evidence, I will ſpare no man. But if you go generally, it may raiſe ſuch conſternations, that poſſibly there may be no ſafety for us to ſit here, and, if ſettled, it will make men eaſy.

Sir

Sir *Thomas Lee*] I would forget and forgive. But ſeducing and expoſing all *England* to the rapine of the *Jeſuits*, they cannot ſit here who have betrayed the Nation—The late King ſat ſafely when his Council told him it was Law. I move, that that may be taken firſt into conſideration. I do recommend heartily not to proceed in general terms. Where there are faults, and thoſe evidently proved, I would have them puniſhed, but not to involve all *England*.

Col. *Birch*.] As to the work before you, if you will not let things find out Perſons, you will not have done in a year; but the thing is to purge your own Houſe. I am againſt it, and I deſire you will proceed according to the Orders of the Houſe. It is ſaid, "Every body knows whom he means;" but I do not. There was a Member expelled yeſterday, though but glanced at, and no proof—I have heard Members charged, but then the Perſon that charges, ſtands up and declares he will make it good; that being done, the accuſed ſtands up and makes his defence; but before proof he is not to withdraw. This is the ancient uſage of Parliament, and I am ready that any body take up the firſt ſtone, and throw it at me.

Mr *Foley*.] What moved this Inſtruction to the Committee of the whole Houſe, I underſtand not, nor to what end this Motion was made. Are you reſolved that men ſhould eſcape, becauſe you know not their names? I am againſt the Queſtion, and I would have the Committee proceed as they think fit.

Mr Sollicitor *Somers*.] It is abſolutely neceſſary that ſome ſhould be puniſhed, for vindicating the King's honour, and to juſtify without doors what we have done. The Motion was made to except no other general crimes than what are already excepted; the reaſon was, becauſe there is the ſame exception in this, as in other Pardons; but this turns quite another way. In the Bill of Rights, you did conſider offences there enumerated, *&c.* Men will find out crimes to undo Kingdoms by new ways; therefore, unleſs you make new Puniſhments, how will they be met with? Murders and Rapes are eaſily done, but it requires learning and invention to ſubvert Laws and Government? Is it only Murders, Felonies, Raps, *&c.* you are to prevent? You will make ſorry work elſe with them

them that occaſioned the Abdication of King *James*. Whenever you name Perſons, muſt not you name offences at laſt? You will ſpend as much time one way as the other but it is of infinite conſequence that the crimes be ſtated, elſe the next age will not know why you have puniſhed Perſons. Upon the whole, if you will have the World ſee the Crimes you have puniſhed, you ought to leave it entirely to the Committee. State the Heads, and leave it to them to adapt Perſons to it.

Mr *Hawles*.] I have a great value for the Common-Law, which never enquires into Murder till you find it a Murder, nor a Robbery, till it be found ſo. I am clearly of opinion, that elſe you will run into great abſurdities; as in the Bill of Corporations, *&c.* the Judges ran up fines from 1000 *l.* to 40,000 *l.* Then you took other methods; as in *R.* II's time, there were Judgments againſt Judgments, and for ſome hundreds of years you heard no more of them. Go to that which is the moſt crying ſin, the delivering up of every man. Perſons have been irregularly executed. When a man is put into power, they make him do what they liſt. A Perſon was kept out a good while that ſat in your Chair, (*Williams*;) at laſt they brought him in; he ſat in your Chair, and acted for you, and afterwards was fined 10,000 *l.* for it, and was afraid that his life would have been taken away; if he owns that, I hope you will paſs him by. Except as few as you can in the Bill, but it is the readieſt way. Charters, and the Diſpenſing Power, were but the conſequence of the former.

Mr *Garroway*.] I am againſt naming Perſons till you have agreed to things. I never heard of a Perſon accuſed here, but he found ſomebody to excuſe him. They that do not like the thing to be puniſhed, let them go upon another Head. But ſince your laſt ſitting, there has been ſuch management, that if it be not puniſhed upon another Head, I ſee a melancholy proſpect of our ſafety; ſince the King does not know the Perſons that have abuſed him. Find out things, elſe you will never find out the Perſons, nor come at them as long as you live. If you will go upon Proſecutors, go upon all, and find them out by what they have done.

Col.

Col. *Auſten.*] It ſeems to me a natural way to go upon things. Suppoſe I find who was moſt obnoxious, and has led you out of the way of the Government, is there any difficulty then to name Perſons? Therefore, for the eaſe of the Committee, give directions to come to Perſons by things, and then I am for as few as you pleaſe; and not from things to Perſons.

Sir *Robert Howard.*] I think an Act of Indemnity is expected, and I acknowlege that all Revolutions, (though this is one of the ſtrangeſt) have been followed with an Indemnity. To propoſe a cenſure on Perſons, and not tell you why, is very ſtrange.

Major *Wildman.*] To me it ſeems ſtrange, that any Member ſhould name a Perſon that ought to be excepted, before crimes are ſtated. The matter is worthy of great conſideration, what ſorts of crimes you will make examples to all futurity, by naming a man for ſome ſort of crimes where he may be involved in the uſual way of mercy—But ſome are involved in one thing, ſome in another, that cannot be proved till we ſee crimes. It is not our buſineſs to conſider an Act of Indemnity for crimes puniſhed by ordinary courſe of juſtice, but of murders in form of Law; to tell the King who muſt die, this crime the common Courts of Juſtice cannot puniſh. For ſubverting the Law, *&c.* the Gentlemen of the Long-Robe of this Houſe would be hard put to it to form an Indictment againſt ſuch a Perſon. A Parliament may judge Common-Law-Treaſon; and an intention to ſubvert the Government, endeavours to ſubvert the Laws and Liberties of *England*; the Parliament declares what that crime is, and then you find out the Perſons that committed them. How can a man find out the occaſion of the Prince of *Orange*'s coming hither to deliver us from arbitrary Government and Popery? No man can take upon him to deſtroy the Liberties of this Houſe, and judge it in *Weſtminſter-Hall.* Let every one agree a crime to be excepted, and then you will eaſily bring Perſons under that Head. I do not intend (upon explanation of myſelf) that I would have you declare what crimes you will not except, for the Heads of offences are numerous.

Serjeant

Serjeant *Maynard.*] I think, the leſs Inſtructions you give the Committee, the better you will proceed. Thoſe that would have perverted our Souls and Eſtates, have been againſt our Religion, Laws, and Liberties. As for thoſe that anciently did go to ſubvert and overthrow a Government, a common Judge had nothing to do with it, but it was referred to the Senate of the People. The Archbiſhop and the Biſhops were brought to Tryal by a Jury, at the *King's-Bench* Bar, for a modeſt and dutiful Petition to the King, to be made a Libel. Some have made a matter of excuſe for the Judges, "That they were convened to tell the King what might be done by Law, and made excuſe, as in *H.* IV's time, that it was for fear of death;" but a man ought not to ſave his life by ſubverting the Laws, who is ſworn to maintain them. But that ſerved not their turns then for an excuſe. As for the Charters, *&c.* no man can doubt but they are highly guilty that would have ſubverted Law and Parliament. There was a call of Serjeants and Judges for that purpoſe. Whenever this comes to a Committee, I would not give general Inſtructions, for you will bring in a multitude of Perſons. I concur to name Perſons with their Crimes. The Tryal-Book is no Evidence: God forbid any man ſhould be hanged by a Book!

Mr *Harley.*] Upon the Inſtructions I confeſs my ignorance, therefore I deſire to be informed, whether you will except Perſons without Crimes? Will not you adjudge Crimes for Perſons to be excepted out of the Indemnity? If you take Perſons at random, poſſibly you may not take them that are moſt guilty.

Mr Attorney *Treby.*] You are upon a ſtrange Motion, to my underſtanding, Inſtructions to a Committee. I remember not that ever done to a Committee of the whole Houſe—I am not an advocate for the times of Uſurpation. The family I come of adhered to the Crown—As I have ſuffered in *Charles* I's time, I abhor thoſe on the ſcaffold with vizards, and thoſe that ſat in the Court of Juſtice. The more latitude you give your Committee, the better you will do your work—I would rather except Perſons by name, but then you muſt do it by that way that ſome would preclude your Committee from.

You

You except them from pardon, and reſerve them for hearing. Thoſe who would eſtabliſh Popery I would not name, becauſe they are in the dark. Thoſe urged the Proſecution of the Biſhops, and the diſpenſing with the Oaths and Teſt; they were great enormities, but deſtroying Corporations was the Mother-Treaſon that brought forth all theſe. If the Judges had not ſo much Law, they had ſo much wit as would have told them the thing you fear; *viz.* "Your judgment will deſtroy Parliaments: You diſpenſe with thirty or forty Statutes."—The moſt mercenary Judge in *Weſtminſter-Hall* would not have had the courage to do this, they would never have done it, but they thought themſelves Parliament-proof.—"It is but nominal, [they ſaid,] not real—only a number of packed malefactors, like yourſelves, and no danger from them." I can no more endure that theſe ſhould be pardoned, than to ſet all the jails in *England* open, to let looſe rogues and malefactors. He that would have theſe pardoned, let that Gentleman ſtand up next after me, and ſay ſo. There have been ill things in Court, but much worſe out of Court. They tried *Holloway*, becauſe they had Evidence; againſt *Armſtrong* they had none. It is confeſſed, that we granted *Holloway* Tryal, there was enough againſt him: There was the virtue of that good man *Sawyer*. Againſt *Armſtrong* we had nothing; therefore try him upon the Outlawry; and he was hanged without Tryal. Some are in the dark, no man knows their names; but except them upon that—It is reaſonable that there ſhould be no cramping a Committee; let them go into it, without farther Inſtructions.

Mr *Sacheverell.*] Now it is manifeſt, that, if you go upon Perſons, and not things, you may as well ſay you will neither go upon Perſons nor things. If you put the Queſtion for general Inſtructions, that may be ſomething, but if you put it as now, the whole Houſe ſees the meaning of it.

Mr *Hampden.*] We all mean very well. You had a Queſtion propoſed. I never ſaw ſuch an one go abroad before. If one queſtions for Perſons, and not things, then thoſe Perſons are put to the Queſtion, Whether

they ſhall be puniſhed? For what? For nothing. Another deſires it may be proved upon Perſons; for what? For Crimes, ſure. Theſe kind of Queſtions are ſtrange. Were it not more clear to name your Crimes? And then we may the more impartially give judgment. In all Courts, in all Judicatures, they ſay, "Here is the Law, and here is the fact, and then try if the Perſons be guilty of this fact." A man to be tried, and to be guilty of a crime which is not defined! No Queſtion that has been propoſed is fit to ſtand upon your Books. Every body means well, but not well expreſſed.

Mr *Smith.*] I take every Gentleman's Intentions to be ſincere; but whether ſhall there be a general exemption, or not? I believe there are People in the dark that deſerve Exceptions. You have not yet found out the Perſons who adviſed theſe Eccleſiaſtical Commiſſions. You ſee only the Actors. Theſe things were done, and People never knew the Authors, and, unleſs you prevent theſe private Orders, you may have them for the future; and as long as Perſons ſit in the Lords Houſe that are accuſed of theſe things done in the dark, (Lord *Halifax)* I ſhall never think we are ſafe.

Upon Exceptions taken at ſome words,

Lord *Falkland.*] I did ſay, that *Arnold* ſaid, "That from the Abdication of King *James*, to the pardoning thoſe rogues that gave up the Charters, they had always given ill Votes." I ſhould not have taken notice of this, if I had not too much reaſon to believe there has been too much notice taken of what has been ſaid in this Houſe abroad.

Mr *Arnold.*] If the Gentleman had taken all I ſaid, I applied it to thoſe out of this Houſe, perhaps to thoſe of the *Devil-Tavern* Club, but I applied it not to Members of the Houſe.

Sir *John Trevor.*] I am not for this; it is not the way, to be in heat; this is not Indemnity; at this rate, we ſhall want Indemnity here. Some things carry Pardons in themſelves. I deſire Pardon and Pity. In *H.* VI's time, ſome great Peers contended for Precedency without doors, becauſe it was ſo in the Lords Houſe. They were ordered to ſhake hands, and be friends, and go on with

with the buſineſs of the Kingdom I would do ſo now

[The previous Queſtion for proceeding on the Bills, by nominating of particular Perſons, paſſed in the Negative, 190 to 173.

Wedneſday, January 22.

On a Petition from Sir *Thomas Pilkington*, Lord Mayor of *London*, and others, who were fined on pretence of a riot at the Election of Sheriffs for the City of *London* in the year 1682 *.

Sir *Thomas Clarges.*] I adviſe, that this judgment againſt my Lord Mayor, and others, may be reverſed by Writ of Error. Where will this end, to bring theſe things into Parliament, which may have remedy elſewhere? What a flood will you bring upon yourſelves in theſe things? The troubles began not in the times of theſe Gentlemen. I doubt, whether there have been any lawful Sheriffs of *London* theſe ſeven years, ever ſince the Charter was taken away. We have had great Revolutions, a King abdicated, great Wars upon us, and why ſhould theſe things be brought upon us to trouble the People? I cannot enumerate the conſequences. This will be an occaſion of great inconveniences upon us. In the late Uſurpation, Lord *Capel*, Lord *Holland*, Col. *Penruddock*, and others, were murdered, and yet thoſe who ſat upon them were pardoned; only ſome few examples were made, of the moſt execrable, for quieting the minds of the People. At this rate, we ſhall be a Court to give damages out of one man's eſtate to another. I would reject the Bill.

Sir *Henry Capel.*] I obſerve, that arguments are uſed againſt this Bill from the Indemnity in 12 *Charles* II,

* *Pilkington* was Sheriff of *London* in the year 1682; an honeſt, but an indiſcreet man, that gave himſelf great liberties in diſcourſe. He being deſired to go along with the Mayor and Aldermen to compliment the Duke upon his return from *Scotland*, declined going, and reflected on him as one concerned in the burning of the city. Two Aldermen ſaid, they heard that, and ſwore it againſt him. Sir *Patience Ward*, the Mayor of the former year, ſeeing him go into that diſcourſe, had diverted him from it, but heard not the words which the other ſwore to: And he depoſed, "That, to the beſt of his remembrance, he ſaid not thoſe words." *Pilkington* was caſt in 100,000*l.* damages, the moſt exceſſive that had ever been given. *Burnet.*

The above-mentioned pretended riot was at *Guildhall* the ſame year concerning the right of nominating Sheriffs, when the Lord Mayor, in oppoſition to the Common Hall, nominated *North* and *Rich*, who were accordingly returned and ſworn Sheriffs; and *Pilkington*, and others who oppoſed it, were tried and fined, the year after.

which was occaſioned by a time of great miſery; but that was not this Caſe; it was then a Civil War, brother was againſt brother. That Caſe is out of doors. It is ſaid, theſe Gentlemen may find remedy in *Weſtminſter-Hall.* If that was the Caſe, (as it is not) I think this Houſe has the liberty, in ſuch a caſe of importance, to take notice of it. You have been told what was done in the time of Lord *Shaftſbury*, and in Mr *Bethel*'s, but it was Lord *Ruſſel*'s Caſe then, and now it is time to make an example.

Sir *John Guiſe.*] You are told, "We muſt be guided by the Indemnity in *Charles* II's time." I hope we ſhall ever be at liberty of judging whether things are well or ill done. There has been ſomething ſaid by a Member that a little ſurprizes me, "That if you bring a Bill to do right in this Caſe, a Court may be erected to give damages out of one man's eſtate to another." There are crimes that excell others; do you know any thing of a greater degree than this? Where was there more violation of the Laws, than in taking away Charters? And where more of Charters than *London?* If you will go upon Matters, and not Perſons, muſt not this of Charters be one? There are mixed Caſes in theſe things upon the Public, and upon Perſons. This is an extraordinary Caſe, and there muſt be ſuch remedies applied, that no ſuch thing ſhall be dared to be attempted for the future.

Mr *Hawles.*] I have ſome reaſon to underſtand this Caſe. I had leave from this Houſe to attend the Lords in this Caſe, to reverſe this judgment by Writ of Error. If the King muſt give this damage, (at whoſe ſuit it was) you muſt give it him again. Will you make ſatisfaction in the Biſhops Caſe? I am for that too, to every Perſon concerned. There is no remedy but here, and I am for retaining the Bill. A Parliament was anciently called every year, or oftener. The Parliament then was a Court of Juſtice, to relieve on extraordinary occaſions. There were Juries over-awed by Judges; *Bethel* and *Corniſh* took another courſe, to find honeſt men; this was complained of, and they muſt have new Juries and Officers, and Lord *Ruſſel* ſuffered upon it. You have the Indemnity of *Charles* II mentioned—This is not a Bill of puniſhment,

puniſhment, but a Bill of ſatisfaction, to value wrongs they have done; and you may pardon them for the crimes. If you aſk the value of the affection of father and children, they cannot tell what they are; go as far as you can, if theſe are faulty, and the Petitioners may come for ſatisfaction. It is a reaſonable Bill, and I hope you will accept it. Would you have a return to what you are delivered from? It is a juſt Bill.

Mr *Hampden.*] We have a great matter before us in Debate, becauſe it is ſo extraordinary. This matter, it is true, does relate to a common Indemnity; but, I think, it is not promoted by juſtifying every thing that has been done, nor puniſhing, but to prevent, for the future, the ſame thing again; and that, if there be not this Bill to deter men, they may fall into the ſame offences. Some men call this "A puniſhment," and ſome, "A reparation," but it is in a ſenſe both. Some ſatisfaction and reparation ought to be made theſe Perſons according to natural juſtice, but it is one thing what a man in conſcience ought to do, and what you compell him to do; it is one thing what a man in ſtrict juſtice is bound to—To make men pay a ſum by ſuch a Law, I cannot readily conſent to it; I have heard nothing fully to ſatisfy me. This, truly, is an injury done, and, in conſcience, they are bound to make reparation. That of *Armſtrong* was a juſt judgment of reparation. Corruption is not taken in that limited ſenſe of "Taking Money": Corruption is taking a place of 1500 *l. per ann.*—In a common caſe, brave men, ſoldiers, condemn a man for delivering up a caſtle, or fort, becauſe he is afraid to keep it; and they ſhould have known that before he undertook to keep it. There needs not Common-Law, nor Statute-Law, in the matter; it is againſt common ſenſe—If you ſay there is no other Law, you will quickly be diſtinguiſhed out of all your Liberties. I am of opinion, therefore, "That the Petition for leave to bring in a Bill to make reparation to my Lord-Mayor, and the reſt of the Petitioners, from Sir *Peter Rich*, and others, do lie upon the Table;" but not to go barely off ſo, for they have done notoriouſly, and I cannot believe that men, able to make a common bargain, ſhould give up their ſenſe and reaſon in that manner. This

was

was not done only againſt the City of *London*, but againſt the whole Kingdom, and if you are not bound to give particular reparation to the Perſons injured, you are to the Public, and, in the mean time, to remove the Perſon, Sir *Peter Rich*, from your company.

Sir *Chriſtopher Muſgrave*.] When a Bill is brought in for ſatisfaction of injury done, it is ſtrange that a Gentleman ſhould ſtart another Queſtion. If you talk of removing People, it is a ſtrange thing. Keep us to a Queſtion. This Petition ſets out "that the Petitioners can have no remedy in the Exchequer," and you are told of the prudence of it. Will it be an act of prudence to give reparation, when they may have it out of the Exchequer? The Queſtion is, Whether they ſhall have a Bill, or not a Bill?

The Petition was read, and *Muſgrave* was miſtaken in the contents.

Sir *Robert Rich*.] I ſee nothing in the Petition as is alleged. I ſee, Virtue is Virtue ſtill, though it wants encouragement. It is plain, the Petitioners can have no remedy but here, but by an *innuendo*; therefore pray put the Queſtion.

Serjeant *Maynard*.] If theſe Gentlemen will thruſt themſelves into the Office of Sheriffs, and have made returns, they have meddled with what they had nothing to do—Whether rightfully Sheriffs, or *de facto* only, that alters the caſe. Whenever you will have juſtice againſt the King, you muſt go to the Exchequer for it—Never ſo much injury, and no remedy there!—When they come there, the Barons are bound to give judgment in reſtitution—Their only way is to ſend out a Writ to the Tally-Office to pay the Money. Upon the whole matter, leave them to have their liberty to have an Action at Law.

[The Queſtion for bringing in a Bill to make reparation to the Lord Mayor, and the reſt of the Petitioners, out of the Eſtates of the Perſons mentioned in the Petition, was carried in the Negative, 169 to 152.]

The Compiler was abſent the reſt of the Seſſion, [which ended *January* 27 *, when his Majeſty, after paſſing ſeveral Bills, prorogued

* Dr *Tillotſon*, Dean of St *Paul*'s, and Dr *Scott*, had been appointed to preach before the Houſe on *January* 30. Sir *Francis Wythens*, Sir *Richard Holloway*,

rogued the Parliament to *April* 2, 1690, but, on *February* 6, it was diſſolved by Proclamation *.]

Holloway, Mr *Graham*, and Mr *Burton*, were examined at the Bar on *Jan.* 25, touching the Proſecution and Proceedings againſt Sir *Thomas Armſtrong*; the Executors of the late Lord *Jeffreys* deſired to be heard by their Counſel; and no Perſons appearing as the Executors of the late Juſtice *Walcott*, the Houſe was informed that he died inteſtate and inſolvent. Whereupon the Houſe proceeded to the Conſiderations of the Amendments to the Bill for reverſing Sir *Thomas Armſtrong*'s Attainder, (reported the 20th,) and ordered the blanks to be filled up with "Sir *Robert Sawyer*," and "Five thouſand pounds." *See the Journal.*

* The King's deſign of going to *Ireland* came to be ſeen by the preparations that were ordered: But a great Party was formed in both Houſes to oppoſe it. Some did really apprehend, that the air of *Ireland* would be fatal to ſo weak a conſtitution: And the *Jacobites* had no mind that King *James* ſhould be ſo much preſſed as he would probably be, if the King went againſt him in perſon. It was by concert propoſed in both Houſes, on the ſame day, to prepare an Addreſs to the King againſt this Voyage. So the King, to prevent that, came the next day, and prorogued the Parliament; and that was ſoon after followed by a Diſſolution. *Burnet.*

END of VOL. IX.